STATE OF MISSOURI

Division of Professional Registration

STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS

Chapter 333, 436, 193, 194 RSMo
&
Rules and Regulations

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STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS

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Division of Professional Registration

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Chapter 333

Chapter 333
Embalmers and Funeral Directors

333.011. Definitions. — 1. As used in this chapter, unless the context requires otherwise, the following terms have the meanings indicated:

(1) **"Board"**, the state board of embalmers and funeral directors created by this chapter;

(2) **"Embalmer"**, any individual licensed to engage in the practice of embalming;

(3) **"Funeral director"**, any individual licensed to engage in the practice of funeral directing;

(4) **"Funeral establishment"**, a building, place, crematory, or premises devoted to or used in the care and preparation for burial or transportation of the human dead and includes every building, place or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose;

(5) **"Funeral merchandise"**, caskets, grave vaults, receptacles, and other personal property incidental to the final disposition of a dead human body, including grave markers, monuments, tombstones, and urns;

(6) **"Person"**, any individual, partnership, corporation, cooperative, association, or other entity;

(7) **"Practice of embalming"**, the work of preserving, disinfecting and preparing by arterial embalming, including the chemical preparation of a dead human body for disposition. Practice of embalming includes all activities leading up to and including arterial and cavity embalming, including but not limited to raising of vessels and suturing of incisions of dead human bodies for funeral services, transportation, burial or cremation, or the holding of oneself out as being engaged in such work;

(8) **"Practice of funeral directing"**, engaging by an individual in the business of preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision or management of the operations of a funeral establishment;

(9) **"Preneed agent"**, any person authorized to sell a preneed contract for or on behalf of a seller;

(10) **"Provider"**, the person designated or obligated to provide the final disposition, funeral, or burial services or facilities, or funeral merchandise described in a preneed contract;

(11) **"Seller"**, the person who executes a preneed contract with a purchaser and who is obligated under such preneed contract to remit payment to the provider.

2. All terms defined in sections 436.400 to 436.520 shall be deemed to have the same meaning when used in this chapter.

(L. 1965 p. 522 § 1, A.L. 2007 S.B. 272, A.L. 2008 S.B. 788, A.L. 2009 S.B. 1)

333.021. Unlicensed person not to engage in practice of embalming or funeral directing. — 1. No person shall engage in the practice of embalming in this state unless he has a license as required by this chapter.

2. No person shall engage in the practice of funeral directing unless he has a license issued under this chapter nor shall any person use in connection with his name or business any of the words "undertaker", "mortician", "funeral home", "funeral parlor", "funeral chapel", "funeral consultant", "funeral director" or other title implying that he is in the business defined as funeral directing herein, unless he or the individual having control, supervision or management of his business is duly licensed to practice funeral directing in this state.

(L. 1965 p. 522 § 2, A.L. 1981 S.B. 16)

333.031. Application for license — fees — examination. — Each application for a license to practice either embalming or funeral directing shall be in writing, addressed to the board, on forms prescribed, verified and shall contain such information as is required by the board. The application shall include a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration. Each application shall be accompanied by an embalming fee or funeral directing fee. Any applicant for both a license to practice embalming and to practice funeral directing shall pay both fees. If any applicant for a license to practice embalming or funeral directing fails to pass the examination given by the board, he may be given other examinations upon payment of a reexamination fee.

(L. 1965 p. 522 § 3, A.L. 1981 S.B. 16)

333.041. Practicum student registration — initial embalmer's license, qualifications of applicants — examination — failure to complete application. — 1. Every person desiring to enter the profession of embalming dead human bodies within the state of Missouri and who is enrolled in a program of education accredited by the American Board of Funeral Service Education, any successor organization, or other accrediting entity as approved by the board shall register with the board as a practicum student upon the form approved by the board. The form for registration as a practicum student shall be accompanied by a fee in an amount established by the board. After a student's registration has been approved by the board, a practicum student registrant may assist, under the direct supervision of an embalmer licensed under this chapter, in an establishment licensed under this chapter. Practicum student registrants shall not assist when not under such supervision. Each practicum student registrant is authorized to work only at the location or locations registered with the board and under only those supervisors registered with the board.

2. Except as otherwise provided in this section, an applicant not entitled to an embalmer's license under section 333.051 or 324.009 shall make application for such license. Each applicant for an initial license to practice embalming shall furnish evidence to establish to the satisfaction of the board that he or she:

(1) Is eighteen years of age or older;

(2) Possesses a high school diploma, a general equivalency diploma, or equivalent thereof, as determined, at its discretion, by the board;

(3) Has completed a funeral service education program accredited by the American Board of Funeral Service Education, any successor organization, or other accrediting entity as approved by the board;

(4) Received passing scores on the National Board Examination-Sciences and the Missouri law examination administered by the International Conference of Funeral Service Examining Boards, any successor organization, or other organization approved by the board; and

(5) Has been employed in a qualifying embalmer's apprentice program as defined by the board for no less than six months and has personally embalmed at least twenty-five dead human bodies under the supervision of an embalmer who is licensed under this chapter. The first twelve of the embalmings shall be conducted under the direct supervision of the licensed embalmer. For purposes of this subdivision, a **"qualifying embalmer's apprentice program"** is a program in which the apprentice completed the minimum number of hours required by the board and, as attested to by the supervising licensed embalmer, obtained the minimal required skills to practice embalming. For purposes of this subdivision, **"direct supervision"** shall mean supervision in which the licensed embalmer is physically present with the apprentice embalmer and the dead human body at the beginning of the embalming process and available for

consultation within one hour for the remainder of the embalming process. The licensed embalmer shall inspect all bodies embalmed by the apprentice embalmer.

3. Upon written request to the board, any person licensed under this section may, at his or her election, at any time, sit for the National Board Examination-Arts administered by the International Conference of Funeral Service Examining Boards, any successor organization, or other organization approved by the board if such person has not previously passed such examination.

4. If the applicant does not complete the application process within the five years after his or her completion of an approved program, then he or she must file a new application and no fees paid previously shall apply toward the license fee.

5. Any person having the qualifications required by this section and section 333.042 may be granted both a license to practice funeral directing and to practice embalming.

(L. 1965 p. 522 § 4, A.L. 1969 H.B. 56, A.L. 1977 S.B. 6, A.L. 1981 S.B. 16, A.L. 1983 S.B. 44 & 45, A.L. 1993 S.B. 27, A.L. 1998 S.B. 854, A.L. 2001 H.B. 48, A.L. 2011 H.B. 265 merged with S.B. 325, A.L. 2018 S.B. 840, A.L. 2020 H.B. 2046, A.L. 2025 S.B. 150)

333.042. Funeral directors license, requirements — limited license only for cremation — waiver of licensure, when — definitions. — 1. Except as otherwise provided in this section, an applicant for a funeral director license not entitled to a license under section 333.051 or 324.009 shall make application for an initial license to practice funeral directing and shall furnish evidence to establish to the satisfaction of the board that he or she:

(1) Is eighteen years of age or older;

(2) Possesses a high school diploma, a general equivalency diploma, or equivalent thereof, as determined, at its discretion, by the board; and

(3) Has either:

(a) Completed a funeral service education program accredited by the American Board of Funeral Service Education, any successor organization, or other accrediting entity as approved by the board and received passing scores on the National Board Examination-Arts and the Missouri law examination. The board may accept, in lieu of a passing score on the National Board Examination-Arts, a passing score on an administration of the Missouri arts examination that occurred before the International Conference of Funeral Service Examining Boards ended all administrations of the Missouri arts examination on January 1, 2023; or

(b) Made application for a funeral director provisional license and successfully either:

a. Within twenty-four months of receipt of the provisional license:

(i) Completed a twelve-month qualifying funeral director apprentice program as determined by the board during which the applicant arranged and conducted ten funeral services. Such program shall be under the personal supervision of a funeral director licensed under this chapter and in a Missouri funeral establishment licensed for the care and preparation for burial and transportation of the human dead in this state; and

(ii) Received passing scores on the National Board Examination-Arts and the Missouri law examination. The board may accept, in lieu of a passing score on the National Board Examination-Arts, a passing score on an administration of the Missouri arts examination that occurred before the International Conference of Funeral Service Examining Boards ended all administrations of the Missouri arts examination on January 1, 2023; or

b. Within thirty-six months of receipt of the provisional license:

(i) Completed an eighteen-month qualifying funeral director apprentice program as determined by the

board during which the applicant arranged and conducted twenty-five funeral services. Such program shall be under the personal supervision of a funeral director licensed under this chapter and in a Missouri funeral establishment licensed for the care and preparation for burial and transportation of the human dead in this state; and

(ii) Received a passing score on the Missouri law examination.

2. Any person holding a provisional license shall be eligible, upon written request to the board, to sit for the National Board Examination-Arts and the Missouri law examination at any time during the period in which his or her provisional license is effective.

3. Any licensed funeral director who has not previously sat for the National Board Examination-Arts may, at his or her election and upon written request to the board, sit for the examination.

4. A person may apply for a limited license to work only in a funeral establishment licensed for cremation. A person holding a limited funeral director license may perform duties related to cremation. To qualify for a limited funeral director license, an applicant shall be eighteen years of age or older and shall make application with the board, pay applicable fees, and successfully complete the Missouri law examination. Completion of a qualifying funeral director apprentice program shall not be required to obtain a limited funeral director license.

5. The board shall, at its discretion and upon written request, waive individual funeral director licensure requirements for up to six months if there is an absence of a funeral director in charge due to the death or disability of the licensed funeral director and there is no other licensed funeral director available to discharge the director's duties. A waiver under this subsection shall allow the spouse, next of kin, personal representative, or conservator of the absent director to conduct business until a licensed funeral director can be obtained or business arrangements are made to close or sell the establishment. The waiver shall not allow for any services to be provided for which formal funeral service education is required.

6. As used in this section, the following terms mean:

(1) **"Personal supervision"**, supervision in which the licensed funeral director shall be physically present during any arrangement conferences and present for the first five funeral services conducted by the apprentice. The supervising licensed funeral director shall not be required to be present when the apprentice performs any other functions relating to the practice of funeral directing but shall be available within one hour for consultation;

(2) **"Qualifying funeral director apprentice program"**, a program that meets the minimum hour requirements for funeral directing tasks as set by the board and in which the supervising funeral director has attested that the apprentice has obtained the minimal required skills to practice funeral directing.

(L. 1993 S.B. 27, A.L. 1998 S.B. 854, A.L. 2001 H.B. 48, A.L. 2011 H.B. 265 merged with S.B. 325, A.L. 2018 S.B. 840, A.L. 2025 S.B. 150)

333.051. Reciprocity, test required. — A person holding a valid, unrevoked and unexpired license to practice funeral directing or embalming in another state or territory with requirements less than those of this state may, after five consecutive years of active experience as a licensed funeral director or embalmer in that state, apply for a license to practice in this state after passing a test to prove his or her proficiency, including but not limited to a knowledge of the laws and regulations of this state as to funeral directing and embalming.

(L. 1965 p. 522 § 5, A.L. 1981 S.B. 16, A.L. 1998 S.B. 854, A.L. 2011 H.B. 265 merged with S.B. 325, A.L. 2018 S.B. 840)

333.061. No funeral establishment to be operated by unlicensed person — license requirements, application procedure — license may be suspended or revoked or not renewed. — 1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;

(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;

(3) That any place in the funeral establishment where embalming is conducted contains a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health and senior services for the prevention of the spread of contagious, infectious or communicable diseases;

(4) Each funeral establishment shall have a register book or log which shall be available at all times for the board's inspector and that shall contain:

(a) The name of each body that has been in the establishment;

(b) The date the body arrived at the establishment;

(c) If applicable, the place of embalming, if known; and

(d) If the body was embalmed at the establishment, the date and time that the embalming took place, and the name, signature, and license number of the embalmer; and

(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. The board shall grant or deny each application for a license pursuant to this section within thirty days after it is filed. The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.

4. Licenses shall be issued pursuant to this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. The board may refuse to renew or may suspend or revoke any license issued pursuant to this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the violation by the owner of the funeral establishment of any of the provisions of section 333.121*. No new license shall be issued to the owner of a funeral establishment or to any corporation controlled by such owner for three years after the revocation of the license of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection the procedure for notice and hearing as prescribed by section 333.121* shall be followed.

(L. 1965 p. 522 § 6, A.L. 1981 S.B. 16, A.L. 2001 H.B. 48, A.L. 2011 H.B. 265 merged with S.B. 325)
*Section 333.121 was repealed by S.B. 1, 2009.

333.071. Business to be conducted where. — The business or profession of an individual licensed to practice embalming or funeral directing shall be conducted and engaged in at a funeral establishment. This section does not prevent a licensed funeral director owning or employed by a licensed funeral establishment

from conducting an individual funeral from another and different funeral establishment or at a church, a residence, public hall, or lodge room.

(L. 1965 p. 522 § 7, A.L. 1981 S.B. 16)

333.081. License renewal, fee — failure to renew, effect — business address required. — 1. Each license issued to a funeral director or embalmer pursuant to this chapter shall expire unless renewed on or before the renewal date. The board may, however, provide for the renewal of licenses held by individuals who are not actively engaged in practice and who are over sixty-five years of age without fee. The board shall renew any such license upon due application for renewal and upon the payment of the renewal fee, except that no license shall expire during the period when the holder thereof is actively engaged in the military service of the United States. Any licensee exempted from the renewal of his or her license because of military service shall, before beginning practice in this state after leaving military service, apply for and pay the renewal fee for the current licensing period.

2. When renewing a funeral director's or embalmer's license the licensee shall specify the address of the funeral establishment at which he or she is practicing or proposes to practice and shall notify the board of any termination of his or her connection therewith. The licensee shall notify the board of any new employment or connection with a funeral establishment of a permanent nature. If the licensee is not employed at or connected with a funeral establishment he shall notify the board of his or her permanent address.

3. The holder of an expired license shall be issued a new license by the board within two years of the renewal date after he or she has paid delinquent renewal fees. Any license not renewed within two years shall be void.

4. Failure of the licensee to receive the renewal notice shall not relieve the licensee of the duty to pay the renewal fee and renew his or her license.

(L. 1965 p. 522 § 8, A.L. 1981 S.B. 16, A.L. 2001 H.B. 48)

333.091. License to be displayed. — All licenses or registrations, or duplicates thereof, issued pursuant to this chapter shall be displayed at each place of business.

(L. 1965 p. 522 § 9, A.L. 1981 S.B. 16, A.L. 2009 S.B. 1, A.L. 2011 H.B. 265 merged with S.B. 325)

333.101. Places of business may be inspected. — The board or any member thereof or any agent duly authorized by it may enter the office, premises, establishment or place of business of any licensee or registrant, or any office, premises, establishment or place where the practice of funeral directing, embalming, preneed selling or providing is carried on, or where such practice is advertised as being carried on for the purpose of inspecting said office, premises or establishment and for the purpose of inspecting the license and registration of any licensee or registrant and the manner and scope of training given by the licensee or registrant to the apprentice operating therein.

(L. 1965 p. 522 § 10, A.L. 1981 S.B. 16, A.L. 2009 S.B. 1)

333.111. Rules and regulations of board, procedure — fees, how set. — 1. The board shall adopt and enforce rules and regulations for the transaction of its business and for standards of service and practice to be followed in the professions of embalming and funeral directing deemed by it necessary for the public

good and consistent with the laws of this state. The board may also prescribe a standard of proficiency as to the qualifications and fitness of those engaging in the practice of embalming or funeral directing.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

3. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

(L. 1965 p. 522 § 11, A.L. 1981 S.B. 16, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

333.145. Written statement of charges, required when, content — merchandise prices to be indicated. — 1. Every funeral firm in this state or the funeral service licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of a dead human body, at the time such arrangements are completed and prior to the time of rendering the service or providing the merchandise, a written statement signed by the purchaser or purchasers or their legal representatives, and a representative of the funeral establishment, showing to the extent then known:

(1) The price of the service that the person or persons have selected and what is included therein;

(2) The price of each of the supplemental items of service or merchandise requested;

(3) The amount involved for each of the items for which the firm will advance moneys as an accommodation to the family;

(4) The method of payment.

2. A funeral establishment shall not bill or cause to be billed any item that is referred to as a "cash advance" item unless the net amount paid for such item or items by the funeral establishment is the same as is billed by the funeral establishment.

3. All merchandise displayed in or by funeral establishments in this state shall have the price of the merchandise and included services, if any, clearly marked or indicated on the merchandise at all times.

(L. 1981 S.B. 16)

333.151. Board members — qualifications — terms — vacancies. — 1. The state board of embalmers and funeral directors shall consist of six members, including one voting public member appointed by the governor with the advice and consent of the senate. Each member, other than the public member, appointed shall possess either a license to practice embalming or a license to practice funeral directing in this state or both said licenses and shall have been actively engaged in the practice of embalming or funeral directing for a period of five years next before his or her appointment. Each member shall be a United States citizen, a resident of this state for a period of at least one year, a qualified voter of this state and shall be of good moral character. Not more than three members of the board shall be of the same political party. The nonpublic members shall be appointed by the governor, with the advice and consent of the senate. A majority of the members shall constitute a quorum. Members shall be appointed to represent diversity in gender, race, ethnicity, and the various geographic regions of the state.

2. Each member of the board shall serve for a term of five years. Any vacancy on the board shall be filled by the governor and the person appointed to fill the vacancy shall possess the qualifications required by this chapter and shall serve until the end of the unexpired term of his or her predecessor, if any.

3. The public member shall be at the time of his or her appointment a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of

the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

(L. 1965 p. 522 § 15, A.L. 1981 S.B. 16, A.L. 1999 H.B. 343, A.L. 2009 S.B. 1, A.L. 2011 H.B. 265 merged with S.B. 325)

333.161. Board members to take oath. — Each member of the board shall be duly commissioned by the governor and shall take and subscribe an oath to support the Constitution of the United States and the state of Missouri and to demean himself faithfully in office. A copy of the oath shall be endorsed on the commission.

(L. 1965 p. 522 § 16)

333.171. Board meetings — notice — seal. — The board shall hold at least two regular meetings each year for the purpose of administering examinations at times and places fixed by the board. Other meetings shall be held at the times fixed by regulations of the board or on the call of the chairman of the board. Notice of the time and place of each regular or special meeting shall be mailed by the executive secretary to each member of the board at least five days before the date of the meeting. The board may adopt and use a common seal.

(L. 1965 p. 522 § 17, A.L. 1981 S.B. 16, A.L. 2011 H.B. 265 merged with S.B. 325)

333.181. Officers of board. — At one of its regular meetings, the board shall elect a chairman, vice chairman and secretary from the members of the board. Each such officer shall serve as such for a term fixed by regulation of the board and shall perform such duties as are required by the regulations of the board and by law.

(L. 1965 p. 522 § 18)

333.201. Examinations, notice, published, when. — The board shall publish notice of each examination held by the board at least thirty days before any examination is to be held, advising the time and place of the examination.

(L. 1965 p. 522 § 20, A.L. 1980 H.B. 1266, A.L. 1981 S.B. 16)

333.221. Compensation of board members — board may employ personnel. — 1. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his expenses necessarily incurred in the discharge of his official duties.

2. The board may employ such board personnel, as defined in subdivision (4) of subsection 11 of section 324.001, including legal counsel, as is necessary for the administration of this chapter.

(L. 1965 p. 522 § 22, A.L. 1980 H.B. 1266, A.L. 1981 S.B. 16, A.L. 2008 S.B. 788, A.L. 2009 S.B. 1)

333.231. Fund created, use, funds transferred to general revenue, when. — 1. All fees payable under this chapter shall be collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the fund to be known as the "Board of Embalmers and Funeral Directors' Fund".

2. All compensation of board members and employees and all expenses incident to the administration of this chapter shall be paid out of the board of embalmers and funeral directors' fund. No expense of this board shall ever be paid out of any other fund of the state, either by deficiency bill or otherwise.

3. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

(L. 1965 p. 522 § 23, A.L. 1980 H.B. 1266, A.L. 1981 S.B. 16, A.L. 1985 S.B. 99)

333.251. Application of law. — Nothing in this chapter shall apply to nor in any manner interfere with the duties of any officer of local or state institutions, nor shall this chapter apply to any person engaged simply in the furnishing of burial receptacles for the dead at the time of need.

(L. 1965 p. 522 § 25, A.L. 2009 S.B. 1)

333.261. Violations are misdemeanors. — Any person who violates any provision of this chapter is guilty of a class A misdemeanor.

(L. 1965 p. 522 § 26, A.L. 1981 S.B. 16)

333.310. Applicability of law. — The provisions of sections 333.310 to 333.340 shall not apply to a cemetery operator who sells contracts or arrangements for services for which payments received by, or on behalf of, the purchaser are required to be placed in an endowed care fund or for which a deposit into a segregated account is required under chapter 214; provided that a cemetery operator shall comply with sections 333.310 to 333.340 if the contract or arrangement sold by the operator includes services that may only be provided by a licensed funeral director or embalmer.

(L. 2009 S.B. 1

333.315. Provider license required — application procedure — renewal of licensure — expiration of license. — 1. No person shall be designated as a provider or agree to perform the obligations of a provider under a preneed contract unless, at the time of such agreement or designation, such person is licensed as a preneed provider by the board. Nothing in this section shall exempt any person from meeting the licensure requirements for a funeral establishment as provided in this chapter.

2. An applicant for a preneed provider license shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule;

(2) Be authorized and registered with the Missouri secretary of state to conduct business in Missouri;

(3) Identify the name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(4) Identify the name and address of each seller authorized by the provider to sell preneed contracts in which the provider is designated or obligated as the provider;

(5) File with the state board a written consent authorizing the state board to inspect or order an investigation, examination, or audit of the provider's books and records which contain information concerning preneed contracts sold for or on behalf of a seller or in which the applicant is named as a provider; and

(6) If the applicant is a corporation, each officer, director, manager, or controlling shareholder shall be eligible for licensure if they were applying for licensure as an individual.

3. Each preneed provider shall apply to renew his or her license on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule, however no renewal fee shall be required for any funeral establishment whose Missouri license is current and active;

(3) Be authorized and registered with the Missouri secretary of state to conduct business in Missouri;

(4) File an annual report with the state board which shall contain:

(a) The name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(b) The business name or names used by the provider and all addresses from which it engages in the practice of its business;

(c) The name and address of each seller with whom it has entered into a written agreement since last filing an annual report with the board authorizing the seller to designate or obligate the licensee as the provider in a preneed contract; and

(d) Any information required by any other applicable statute or regulation enacted pursuant to state or federal law.

4. A license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal may apply for reinstatement within two years of the renewal date by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

(L. 2009 S.B. 1)

333.320. Seller license required — application procedure — renewal of licensure — expiration of license. — 1. No person shall sell, perform, or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of the sale, performance, agreement, or designation, such person is licensed by the board as a seller and authorized and registered with the Missouri secretary of state to conduct business in Missouri.

2. An applicant for a preneed seller license shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule;

(2) Be an individual resident of Missouri who is eighteen years of age or older, or a business entity registered with the Missouri secretary of state to transact business in Missouri;

(3) If the applicant is a corporation, each officer, director, manager, or controlling shareholder, shall be eligible for licensure if they were applying for licensure as an individual;

(4) Meet all requirements for licensure;

(5) Identify the name and address of a custodian of records responsible for maintaining the books and records of the seller relating to preneed contracts;

(6) Identify the name and address of each licensed provider that has authorized the seller to designate such person as a provider under a preneed contract;

(7) Have established, as grantor, a preneed trust or an agreement to utilize a preneed trust with terms consistent with sections 436.400 to 436.520. A trust shall not be required if the applicant certifies to the board that the seller will only sell insurance-funded or joint account-funded preneed contracts;

(8) Identify the name and address of a trustee or, if applicable, the financial institution where any preneed trust or joint accounts will be maintained; and

(9) File with the board a written consent authorizing the state board to inspect or order an investigation, examination, or audit of the seller's books and records which contain information concerning preneed contracts sold by or on behalf of the seller.

3. Each seller shall apply to renew his or her license on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule; and

(3) File annually with the board a signed and notarized annual report as required by section 436.460.

4. Any license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal within two years of the renewal date may apply for reinstatement by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

(L. 2009 S.B. 1)

333.325. Registration as a preneed agent required — application procedure — renewal of registration — expiration of registration. — 1. No person shall sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of, a seller unless registered with the board as a preneed agent except for individuals who are licensed as funeral directors under this chapter. The board shall maintain a registry of all preneed agents registered with the board. The registry shall be deemed an open record and made available on the board's website.

2. An applicant for a preneed agent registration shall be an individual who shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license;

(2) Be eighteen years of age or older;

(3) Be otherwise eligible for registration under section 333.330;

(4) Have successfully passed the Missouri law examination as designated by the board;

(5) Provide the name and address of each seller for whom the applicant is authorized to sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of.

3. Each preneed agent shall apply to renew his or her registration on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001. A registration which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license renewal; and

(3) Provide the name and address of each seller for whom the preneed agent is authorized to sell, negotiate, or solicit the sale of preneed contracts for or on behalf of.

4. Any funeral director acting as a preneed agent shall be required to report the name and address of each preneed seller for whom the funeral director is authorized to sell, negotiate, or solicit the sale of preneed contracts as part of their biennial renewal form. Each funeral director preneed agent shall be included on the board's registry.

5. Any registration which has not been renewed as provided by this section shall expire and the registrant shall be immediately removed from the preneed agent registry by the board. A registrant who fails to apply for renewal may apply for reinstatement within two years of the renewal date by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board.

(L. 2009 S.B. 1)

333.330. Refusal of registration, when — complaint procedure — injunctive relief authorized, when — reapplication after revocation, when. — 1. The board may refuse to issue any certificate of registration or authority, permit, or license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit, or license required by this chapter, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense involving a controlled substance, or for any offense an essential element of which is fraud, dishonesty, or an act of violence;

(3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of registration or authority, permit, or license issued under this chapter or in obtaining permission to take any examination given or required under this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant thereto;

(7) Impersonation of any person holding a certificate of registration or authority, permit, or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged mentally incompetent by a court of competent jurisdiction;

(10) Misappropriation or theft of preneed funds;

(11) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter regulating preneed who is not licensed or registered and currently eligible to practice thereunder;

(12) Issuance of a certificate of registration or authority, permit, or license based upon a material mistake of fact;

(13) Failure to display a valid certificate or license if so required by this chapter regulating preneed or any rule established thereunder;

(14) Violation of any professional trust or confidence;

(15) Making or filing any report required by sections 436.400 to 436.520 regulating preneed which the licensee knows to be false or knowingly failing to make or file a report required by such sections;

(16) Use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed; or

(17) Willfully and through undue influence selling a funeral;

(18) Willfully and through undue influence selling a preneed contract;

(19) Violation of any of the provisions of chapter 193, 194, 407, or 436;

(20) Presigning a death certificate or signing a death certificate on a body not yet embalmed by, or under the personal supervision of, the licensee;

(21) Failure to execute and sign the death certificate on a body embalmed by, or under the personal supervision of, a licensee;

(22) Failure to refuse to properly guard against contagious, infectious, or communicable diseases or the spread thereof;

(23) Refusing to surrender a dead human body upon request by the next of kin, legal representative, or other person entitled to the custody and control of the body.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke any certificate of registration or authority, permit, or license issued under this chapter.

4. In addition to all other powers and authority granted by the board, the board may seek an injunction, restraining order or other order from the circuit court of Cole County to enjoin any seller from engaging in preneed sales upon a showing by the board that the seller has failed to make deposits into the preneed trust, has obtained funds out of the trust to which the seller is not entitled or has exercised

influence or control over the trustee or has engaged in any other act that has resulted in a shortage in any preneed trust or joint account which exceeds twenty percent of the total amount required to be held or deposited into the trust or joint account under the provisions of sections 436.400 to 436.520. In addition to the power to enjoin for this conduct, the circuit court of Cole County shall also be entitled to suspend or revoke the preneed seller's license and any other license issued pursuant to this chapter, held by the seller.

5. An individual whose certificate of registration or authority, permit, or license has been revoked shall wait three years from the date of revocation to apply for any certificate of registration or authority, permit, or license under this chapter, either as an individual or as a manager, director, shareholder, or partner of any business entity. Any certificate of registration or authority, permit, or license shall be issued at the discretion of the board after compliance with all the requirements of this chapter relative to the licensing or registration of the applicant for the first time.

6. Use of the procedures set out in this section shall not preclude the application of the provisions of subsection 2 of section 333.335.

(L. 2009 S.B. 1)

333.335. Injunctive relief authorized, when. — 1. Upon application by the board and the necessary burden having been met, a court of competent jurisdiction may grant an injunction, restraining order, or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a registration or authority, permit, or license is required by sections 333.310 to 333.340, upon a showing that such acts or practices were performed or offered to be performed without the required registration or authority, permit, or license; or

(2) Engaging in any practice or business authorized by a registration or authority, permit, or license issued under this chapter that is in violation of this chapter or sections 436.400 to 436.520, or upon a showing that the holder presents a substantial probability of serious danger to the health, safety, or welfare of any resident of this state or client or customer of the licensee or registrant; or

(3) Engaging in any practice or business that presents a substantial probability of serious danger to the solvency of any seller.

2. Any such action shall be commenced in the county in which such conduct occurred or in the county in which the defendant resides or, in the case of a firm or corporation, where the firm or corporation maintains its principal office or in Cole County.

3. Any action brought under this section shall be in addition to and not in lieu of any authority provided by this chapter, and may be brought concurrently with other actions to enforce this chapter or sections 436.400 to 436.520.

(L. 2009 S.B. 1)

333.340. Rulemaking authority — fees. — 1. The board shall adopt and enforce rules for the transaction of its business and for standards of service and practice to be followed in the professions of embalming and funeral directing deemed by it necessary for the public good and consistent with the laws of this state. The board may also prescribe a standard of proficiency as to the qualifications and fitness of those engaging in the practice of embalming or funeral directing.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules promulgated under section 536.021. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

3. The board shall promulgate and enforce rules for the transaction of its business and for standards of service and practice to be followed for the licensing and registration of providers, sellers, and preneed agents deemed necessary for the public good and consistent with the laws of this state.

4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

(L. 2009 S.B. 1)

Chapter 436

Chapter 436
Special Purpose Contracts

436.400. Citation of law — applicability. — The provisions of sections 436.400 to 436.520 shall be referenced as the "Missouri Preneed Funeral Contract Act" and shall apply only to preneed contracts entered into, and accounts created on or after, August 28, 2009, unless otherwise specified.

(L. 2009 S.B. 1)

436.405. Definitions. — 1. As used in sections 436.400 to 436.520, unless the context otherwise requires, the following terms shall mean:

(1) **"Beneficiary"**, the individual who is to be the subject of the disposition or who will receive funeral services, facilities, or merchandise described in a preneed contract;
(2) **"Board"**, the board of embalmers and funeral directors;
(3) **"Guaranteed contract"**, a preneed contract in which the seller promises, assures, or guarantees to the purchaser that all or any portion of the costs for the disposition, services, facilities, or merchandise identified in a preneed contract will be no greater than the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted;
(4) **"Insurance-funded preneed contract"**, a preneed contract which is designated to be funded by payments or proceeds from an insurance policy or a deferred annuity contract that is not classified as a variable annuity and has death benefit proceeds that are never less than the sum of premiums paid;
(5) **"Joint account-funded preneed contract"**, a preneed contract which designates that payments for the preneed contract made by or on behalf of the purchaser will be deposited and maintained in a joint account in the names of the purchaser and seller, as provided in this chapter;
(6) **"Market value"**, a fair market value:

(a) As to cash, the amount thereof;
(b) As to a security as of any date, the price for the security as of that date obtained from a generally recognized source, or to the extent no generally recognized source exists, the price to sell the security in an orderly transaction between unrelated market participants at the measurement date; and
(c) As to any other asset, the price to sell the asset in an orderly transaction between unrelated market participants at the measurement date consistent with statements of financial accounting standards;

(7) **"Nonguaranteed contract"**, a preneed contract in which the seller does not promise, assure, or guarantee that all or any portion of the costs for the disposition, facilities, service, or merchandise identified in a preneed contract will be limited to the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted;
(8) **"Preneed contract"**, any contract or other arrangement which provides for the final disposition in Missouri of a dead human body, funeral or burial services or facilities, or funeral merchandise, where such disposition, services, facilities, or merchandise are not immediately required. Such contracts include, but are not limited to, agreements providing for a membership fee or any other fee for the purpose of furnishing final disposition, funeral or burial services or facilities, or funeral merchandise at a discount or at a future date;
(9) **"Preneed trust"**, a trust to receive deposits of, administer, and disburse payments received under preneed contracts, together with income thereon;
(10) **"Purchaser"**, the person who is obligated to pay under a preneed contract;
(11) **"Trustee"**, the trustee of a preneed trust, including successor trustees;
(12) **"Trust-funded preneed contract"**, a preneed contract which provides that payments for the preneed contract shall be deposited and maintained in trust.

2. All terms defined in chapter 333 shall be deemed to have the same meaning when used in sections 436.400 to 436.520.

(L. 2009 S.B. 1, A.L. 2011 H.B. 265 merged with S.B. 325)

436.410. Applicability exceptions. — The provisions of sections 436.400 to 436.520 shall not apply to any contract or other arrangement sold by a cemetery operator for which payments received by or on behalf of the purchaser are required to be placed in an endowed care fund or for which a deposit into a segregated account is required under chapter 214; provided that a cemetery operator shall comply with sections 436.400 to 436.520 if the contract or arrangement sold by the operator includes services that may only be provided by a

licensed funeral director or embalmer.

(L. 2009 S.B. 1)

436.412. Violations, disciplinary actions authorized — governing law for contracts. — Each preneed contract made before August 28, 2009, and all payments and disbursements under such contract shall continue to be governed by this chapter as the chapter existed at the time the contract was made. Any licensee or registrant of the board may be disciplined for violation of any provision of sections 436.005 to 436.071* within the applicable statute of limitations. Joint accounts in existence as of August 27, 2009, shall continue to be governed by the provisions of section 436.053, as that section existed on August 27, 2009.

(L. 2009 S.B. 1, A.L. 2011 H.B. 265 merged with S.B. 325)
**Sections 436.005 to 436.071 were repealed by S.B. 1, 2009.*

436.415. Provision of certain services required by provider — seller's duties. — 1. Except as otherwise provided in sections 436.400 to 436.520, the provider designated in a preneed contract shall be obligated to provide final disposition, funeral or burial services and facilities, and funeral merchandise as described in the preneed contract.

2. The seller designated in a preneed contract shall be obligated to collect and properly deposit and disburse all payments made by, or on behalf of, a purchaser of a preneed contract and ensure that is statutorily and contractual duties are met, in compliance with sections 436.400 to 436.520.

(L. 2009 S.B. 1)

436.420. Written contract required, contents — notification to board of provider authorization — seller to provide copy of contract to board upon request. — 1. No person shall be designated as a provider in a preneed contract unless the provider has a written contractual agreement with the seller. Any seller who designates a person as a provider in a preneed contract without a contractual relationship with such person is in violation of the provisions of sections 436.400 to 436.520. No contract is required if the seller and provider are the same legal entity.

2. The written agreement required by this section shall include:

(1) Written consent from the provider authorizing the seller to designate or obligate the provider under a preneed contract;
(2) Procedures for tracking preneed contract funds or payments received by the provider and for remitting such funds or payments to the seller, including the time period authorized by the seller for the remittance of funds and payments; and
(3) The signatures of the seller and the provider or their authorized representatives and the date such signatures were* obtained.

3. A provider shall notify the board within fifteen days of authorizing or otherwise agreeing to allow a seller to designate himself or herself as the provider under any preneed contract.

4. Upon request of the board, a seller, provider, or preneed agent shall provide a copy of any preneed contract or any contract or agreement with a seller or provider to the board.

(L. 2009 S.B. 1)
**Words "signature was" appear in original rolls.*

436.425. Contract form, requirements – voidability of contract – waiver of contract benefits for public assistance recipients. — 1. All preneed contracts shall be sequentially numbered and in writing and in a font type and size that are easily read, and shall clearly and conspicuously:

(1) Include the name, address and phone number of the purchaser, beneficiary, provider and seller;
(2) Identify the name, address, phone and license number of the provider and the seller;
(3) Set out in detail the disposition, funeral and burial services and facilities, and merchandise requested;
(4) Identify whether the contract is trust funded, insurance funded, or joint account funded;
(5) Include notice that the cancellation of the contract shall not cancel any life insurance funding the contract, and that insurance cancellation is required to be made in writing to the insurer;
(6) Include notice that the purchaser will only receive the cash surrender value of any insurance policy fund-

ing the contract if cancelled after a designated time, which may be less than the amount paid into the policy;
(7) Include notice that the board provides by rule that the purchaser has the right to transfer the provider designation to another provider;
(8) Prominently identify whether the contract is revocable or irrevocable;
(9) Set forth the terms for cancellation by the purchaser or by the seller;
(10) Identify any preneed trust or joint account into which contract payments shall be deposited, including the name and address of the corresponding trustee or financial institution;
(11) Include the name, address and phone number of any insurance company issuing an insurance policy used to fund the preneed contract;
(12) Include the name and signature of the purchaser, the provider or its authorized representative, the preneed agent responsible for the sale of the contract, and the seller or its authorized representative;
(13) Prominently identify whether the contract is a guaranteed or nonguaranteed contract;
(14) Include any applicable consumer disclosures required by the board by rule; and
(15) Include a disclosure on all guaranteed installment payment contracts informing the purchaser what will take place in the event the beneficiary dies before all installments have been paid, including an explanation of what will be owed by the purchaser for the funeral services in such an event;
(16) Comply with the provisions of sections 436.400 to 436.520 or any rule promulgated thereunder.

2. A preneed contract shall be voidable and unenforceable at the option of the purchaser, or the purchaser's legal representative, if it is determined in a court of competent jurisdiction that the contract is not in compliance with this section or not issued by a seller licensed under chapter 333, or if the provider has not consented to serve as provider at the time the contract was executed. Upon exercising the option by written notice to the seller and provider, all payments made under such contract shall be recoverable by the purchaser, or the purchaser's legal representative, from the contract seller, trustee, or other payee thereof.

3. A beneficiary who seeks to become eligible to receive public assistance under chapter 208 or any other applicable state or federal law may irrevocably waive their rights to receive any refund or payment of any moneys from the funds or insurance used to fund their preneed contract. Such irrevocable waiver may be executed at any time and shall be in writing, signed and dated by the beneficiary and shall be delivered to the seller and any applicable trustee, financial institution or insurance company.

4. All purchasers shall have the right as provided in this chapter to cancel or rescind a revocable preneed contract and transfer any preneed contract with or without cause.

5. A preneed contract, shall not be changed from a trust-funded, insurance-funded, or joint account-funded preneed contract without the written consent of the purchaser.

(L. 2009 S.B. 1)

436.430. Trust-funded preneed contract requirements. — 1. A trust-funded guaranteed preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller must deposit all payments received on a preneed contract into the designated preneed trust within sixty days of receipt of the funds by the seller, the preneed sales agent or designee. A seller may not require the consumer to pay any fees or other charges except as authorized by the provisions of chapter 333 and this chapter or other state or federal law.

3. A seller may request the trustee to distribute to the seller an amount up to the first five percent of the total amount of any preneed contract as an origination fee. The seller may make this request at any time after five percent of the total amount of the preneed contract has been deposited into the trust. The trustee shall make this distribution to the seller within fifteen days of the receipt of the request.

4. In addition to the origination fee, the trustee may distribute to the seller an amount up to ten percent of the face value of the contract on a preneed contract at any time after the consumer payment has been deposited into the trust. The seller may make written request for this distribution and the trustee shall make this distribution to the seller within fifteen days of the receipt of the request or as may be provided in any written agreement between the seller and the trustee.

5. The trustee of a preneed trust shall be a state- or federally-chartered financial institution authorized to exercise trust powers in Missouri. The trustee shall accept all deposits made to it for a preneed contract and shall hold, administer, and distribute such deposits, in trust, as trust principal, under sections 436.400 to 436.520.

6. The financial institution referenced herein may neither control, be controlled by, nor be under common control with the seller or preneed agent. The terms **"control"**, **"controlled by"** and **"under common control with"** means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities. This presumption may be rebutted by a showing to the board that control does not in fact exist.

7. Payments regarding two or more preneed contracts may be deposited into and commingled in the same preneed trust, so long as the trustee maintains adequate records that individually and separately identify the payments, earnings, and distributions for each preneed contract.

8. Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, other circumstances of the trust, and all other requirements of sections 436.400 to 436.520.

9. All expenses of establishing and administering a preneed trust, including trustee's fees, legal and accounting fees, investment expenses, and taxes may be paid from income generated from the investment of the trust assets. Principal of the trust shall not be used to pay the costs of administration. If the income of the trust is insufficient to pay the costs of administration, those costs shall be paid as per the written agreements between the seller, provider and the trustee.

10. The seller and provider of a trust-funded guaranteed preneed contract shall be entitled to all income, including, but not limited to, interest, dividends, capital gains, and losses generated by the investment of preneed trust property regarding such contract as stipulated in the contract between the seller and provider. Income of the trust, excluding expenses allowed under this subsection, shall accrue through the life of the trust, except in instances when a contract is cancelled. The trustee of the trust may distribute market value of all income, net of losses, to the seller upon, but not before, the final disposition of the beneficiary and provision of the funeral and burial services and facilities, and merchandise to, or for, the benefit of the beneficiary. This subsection shall apply to trusts established on or after August 28, 2009.

11. Providers shall request payment by submitting a certificate of performance to the seller certifying that the provider has rendered services under the contract or as requested. The certificate shall be signed by both the provider and the person authorized to make arrangements on behalf of the beneficiary. If there is no written contract between the seller and provider, the provider shall be entitled to the market value of all trust* assets allocable to the preneed contract. Sellers shall remit payment to the provider within sixty days of receiving the certificate of performance.

12. If a seller fails to make timely payment of an amount due a provider under sections 436.400 to 436.520, the provider shall have the right, in addition to other rights and remedies against such seller, to make demand upon the trustee of the preneed trust for the contract to distribute to the provider from the trust all amounts to which the seller would be entitled to receive for the preneed contract.

13. The trustee of a preneed trust, including trusts established before August 28, 2009, shall maintain adequate books and records of all transactions administered over the life of the trust and pertaining to the trust generally. The trustee shall assist the seller who established the trust or its successor in interest in the preparation of the annual report described in section 436.460. The seller shall furnish to each contract purchaser, within thirty days after receipt of the purchaser's written request, a written statement of all deposits made to such trust regarding such purchaser's contract including the principal and interest paid to date.

14. A preneed trust, including trusts established before August 28, 2009, shall terminate when the trust principal no longer includes any payments made under any preneed contract, and upon such termination the trustee shall distribute all trust property, including principal and undistributed income, to the seller which established the trust.

(L. 2009 S.B. 1)
**Word "trusts" appears in original rolls.*

436.435. Compliance of contracts entered into prior to effective date — investment of trust property

and assets — loans against assets prohibited. — 1. To the extent that any provisions in this chapter which come into effect on August 28, 2009, apply to trusts governed under this chapter which are in existence on August 28, 2009, such trusts shall be in compliance with this chapter no later than July 1, 2010.

2. All property held in a preneed trust, including principal and undistributed income, shall be invested and reinvested by the trustee thereof and shall only be invested and reinvested in investments which have reasonable potential for growth or producing income. Funds in, or belonging to, a preneed trust shall not be invested in any term life insurance product.

3. A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution. A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise when investing and managing trust assets.

4. A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purpose of the trust is better served without diversification.

5. In investing and managing trust assets, a trustee shall consider the following as are relevant to the trust:

(1) General economic conditions;
(2) The possible effect of inflation or deflation;
(3) The expected tax consequences of investment decisions or strategies;
(4) The role that each investment or course of action plays within the overall trust portfolio;
(5) The expected total return from income and the appreciation of capital;
(6) Needs for liquidity, regularity of income, and preservation or appreciation of capital.

6. No seller, provider, or preneed agent shall procure or accept a loan against any investment or asset of or belonging to a preneed trust. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

(L. 2009 S.B. 1)

436.440. Provisions applicable to all preneed trusts. — 1. The provisions of this section shall apply to all preneed trusts, including trusts established before August 28, 2009.

2. A preneed trustee may delegate to an agent duties and powers that a prudent trustee of comparable skills would reasonably delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

(1) Selecting an agent;
(2) Establishing the scope and terms of the agency, consistent with the purposes and terms of the trust; and
(3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the agency.

3. In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the agency.

4. By accepting a delegation of powers or duties from the trustee of a preneed trust, an agent submits to the jurisdiction of the courts of this state.

5. Delegation of duties and powers to an agent shall not relieve the trustee of any duty or responsibility imposed on the trustee by sections 436.400 to 436.520 or the trust agreement.

6. For trusts in existence as of August 28, 2009, it shall be permissible for those trusts to continue to utilize the services of an independent financial advisor, if said advisor was in place pursuant to section 436.031 as of August 28, 2009.

(L. 2009 S.B. 1)

436.445. Trustee not to make decisions, when. — A trustee of any preneed trust, including trusts established before August 28, 2009, shall not after August 28, 2009, make any decisions to invest any trust fund with:

(1) The spouse of the trustee;
(2) The descendants, siblings, parents, or spouses of a seller or an officer, manager, director or employee of

a seller, provider, or preneed agent;

(3) Agents, other than authorized external investment advisors as authorized by section 436.440, or attorneys of a trustee, seller, or provider; or

(4) A corporation or other person or enterprise in which the trustee, seller, or provider owns a controlling interest or has an interest that might affect the trustee's judgment.

(L. 2009 S.B. 1, A.L. 2011 H.B. 265 merged with S.B. 325)

436.450. Insurance-funded preneed contract requirements. — 1. An insurance-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller, provider, or any preneed agent shall not receive or collect from the purchaser of an insurance-funded preneed contract any amount in excess of what is required to pay the premiums on the insurance policy as assessed or required by the insurer as premium payments for the insurance policy except for any amount required or authorized by this chapter or by rule. A seller shall not receive or collect any administrative or other fee from the purchaser for or in connection with an insurance-funded preneed contract, other than those fees or amounts assessed by the insurer. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan for any purpose other than as authorized by this chapter.

3. Payments collected by or on behalf of a seller for an insurance-funded preneed contract shall be promptly remitted to the insurer or the insurer's designee as required by the insurer; provided that payments shall not be retained or held by the seller or preneed agent for more than thirty days from the date of receipt.

4. It is unlawful for a seller, provider, or preneed agent to procure or accept a loan against any insurance contract used to fund a preneed contract.

5. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance or annuity sold with a preneed contract; provided, however, the provisions of sections 436.400 to 436.520 shall not apply to annuities or insurance polices regulated by chapters 374, 375, and 376 used to fund preneed funeral agreements, contracts, or programs.

6. This section shall apply to all preneed contracts including those entered into before August 28, 2009.

7. For any insurance-funded preneed contract sold after August 28, 2009, the following shall apply:

(1) The purchaser or beneficiary shall be the owner of the insurance policy purchased to fund a preneed contract; and

(2) An insurance-funded preneed contract shall be valid and enforceable only if the seller or provider is named as the beneficiary or assignee of the life insurance policy funding the contract.

8. If the proceeds of the life insurance policy exceed the actual cost of the goods and services provided pursuant to the nonguaranteed preneed contract, any overage shall be paid to the estate of the beneficiary, or, if the beneficiary received public assistance, to the state of Missouri.

(L. 2009 S.B. 1, A.L. 2011 H.B. 265 merged with S.B. 325)

436.455. Joint account-funded preneed contract requirements. — 1. A joint account-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. In lieu of a trust-funded or insurance-funded preneed contract, the seller and the purchaser may agree in writing that all funds paid by the purchaser or beneficiary for the preneed contract shall be deposited with a financial institution chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the seller and purchaser, beneficiary or party holding power of attorney over the beneficiary's estate, or in an account titled in the beneficiary's name and payable on the beneficiary's death to the seller. There shall be a separate joint account established for each preneed contract sold or arranged under this section. Funds shall only be withdrawn or paid from the account upon the signatures of both the seller and the purchaser or under a pay-on-death designation or as required to pay reasonable expenses of administering the account.

3. All consideration paid by the purchaser under a joint account-funded contract shall be deposited into a joint account as authorized by this section within ten days of receipt of payment by the seller.

4. The financial institution shall hold, invest, and reinvest funds deposited under this section in other accounts

offered to depositors by the financial institutions as provided in the written agreement of the purchaser and the seller, provided the financial institution shall not invest or reinvest any funds deposited under this section in term life insurance or any investment that does not reasonably have the potential to gain income or increase in value.

5. Income generated by preneed funds deposited under this section shall be used to pay the reasonable expenses of administering the account as charged by the financial institution and the balance of the income shall be distributed or reinvested upon fulfillment of the contract, cancellation or transfer pursuant to the provisions of this chapter.

6. Within fifteen days after a provider delivers a copy of a certificate of performance to the seller, signed by the provider and the person authorized to make arrangements on behalf of the beneficiary, certifying that the provider has furnished the final disposition, funeral, and burial services and facilities, and merchandise as required by the preneed contract, or has provided alternative funeral benefits for the beneficiary under special arrangements made with the purchaser, the seller shall take whatever steps are required by the financial institution to secure payment of the funds from the financial institution. The seller shall pay the provider within ten days of receipt of funds.

7. Any seller, provider, or preneed agent shall not procure or accept a loan against any investment, or asset of, or belonging to a joint account. As of August 28, 2009, it shall be prohibited to use any existing preneed contract as collateral or security pledged for a loan, or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

(L. 2009 S.B. 1, A.L. 2011 H.B. 265 merged with S.B. 325)

436.456. Cancellation of contract, when, procedure. — At any time before final disposition, or before the funeral or burial services, facilities, or merchandise described in a preneed contract are furnished, the purchaser may cancel the contract, if designated as revocable, without cause. In order to cancel the contract the purchaser shall:

(1) In the case of a joint account-funded preneed contract, deliver written notice of the cancellation to the seller. Within fifteen days of receipt of notice of the cancellation, the seller shall take whatever steps may be required by the financial institution to obtain the funds from the financial institution. Upon receipt of the funds from the financial institution, the seller shall distribute the principal to the purchaser. Interest shall be distributed as provided in the agreement with the seller and purchaser;

(2) In the case of an insurance-funded preneed contract, deliver written notice of the cancellation to the seller. Within fifteen days of receipt of notice of the cancellation, the seller shall notify the purchaser that the cancellation of the contract shall not cancel any life insurance funding the contract and that insurance cancellation is required to be made in writing to the insurer;

(3) In the case of a trust-funded preneed contract, deliver written notice of the cancellation to the seller and trustee. Within fifteen days of receipt of notice of the cancellation, the trustee shall distribute one hundred percent of the trust property including any percentage of the total payments received on the trust-funded contract that have been withdrawn from the account under subsection 4 of section 436.430 but excluding the income, to the purchaser of the contract;

(4) In the case of a guaranteed installment payment contract where the beneficiary dies before all installments have been paid, the purchaser shall pay the seller the amount remaining due under the contract in order to receive the goods and services set out in the contract, otherwise the purchaser or their estate will receive full credit for all payments the purchaser has made towards the cost of the beneficiary's funeral at the provider current prices.

(L. 2009 S.B. 1, A.L. 2011 H.B. 265 merged with S.B. 325)

436.457. Seller's right to cancel, when, procedure. — 1. A seller shall have the right to cancel a trust-funded or joint-account funded preneed contract if the purchaser is in default of any installment payment for over sixty days.

2. Prior to cancelling the contract, the seller shall notify the purchaser and provider in writing that the contract shall be cancelled if payment is not received within thirty days of the postmarked date of the notice. The notice shall include the amount of payments due, the date the payment is due, and the date of cancellation.

3. If the purchaser fails to remit the payments due within thirty days of the postmarked date of the notice, then

the seller, at its option, may either cancel the contract or may continue the contract as a nonguaranteed contract where the purchaser will receive full credit for all payments the purchaser has made into the trust towards the cost of the beneficiary's funeral service or merchandise from the provider.

4. Upon cancellation by the seller under this section, eighty-five percent of the contract payments shall be refunded to the purchaser. All remaining funds shall be distributed to the seller.

(L. 2009 S.B. 1)

436.458. Alternative provider permitted, when. — 1. A purchaser may select an alternative provider as the designated provider under the original contract if the purchaser notifies the seller and original provider in writing of the purchaser's intent, stating the name of the alternative provider and the alternative provider consents to the new designation. Purchasers shall not be penalized or assessed any additional fee or cost for such transfer of the provider designation.

2. The seller shall pay the newly designated provider all payments owed to the original provider under the contract. The newly designated provider shall assume all rights, duties, obligations, and liabilities as the original provider under the contract. Interest shall continue to be allocated to the seller as provided under the contract.

3. In the case of a trust-funded contract and upon written notice to the seller of the purchaser's intent to select an alternative provider under subsection 1 of this section, the seller shall either continue the trust with the new provider in place of, and to receive all payment owed to, the original provider under the original agreement, or pay to the new trust all of the trust property, including principal and income.

(L. 2009 S.B. 1)

436.460. Seller report to board required, contents — fee — filing of reports. — 1. Each seller shall file an annual report with the board which shall contain the following information:

(1) The contract number of each preneed* contract sold since the filing of the last report with an indication of, and whether it is funded by a trust, insurance or joint account;
(2) The total number and total face value of preneed contracts sold since the filing of the last report;
(3) The contract amount of each preneed contract sold since the filing of the last report, identified by contract;
(4) The name, address, and license number of all preneed agents authorized to sell preneed contracts on behalf of the seller;
(5) The date the report is submitted and the date of the last report;
(6) The list including the name, address, contract number and whether it is funded by a trust, insurance or joint account of all Missouri preneed contracts fulfilled, cancelled or transferred by the seller during the preceding calendar year;
(7) The name and address of each provider with whom it is under contract;
(8) The name and address of the person designated by the seller as custodian of the seller's books and records relating to the sale of preneed contracts;
(9) Written consent authorizing the board to order an investigation, examination and, if necessary, an audit of any joint or trust account established under sections 436.400 to 436.520, designated by depository or account number;
(10) Written consent authorizing the board to order an investigation, examination and if necessary an audit of its books and records relating to the sale of preneed contracts; and
(11) Certification under oath that the report is complete and correct attested to by an officer of the seller. The seller or officer shall be subject to the penalty of making a false affidavit or declaration.

2. A seller that sells or has sold trust-funded preneed contracts shall also include in the annual report required by subsection 1** of this section:

(1) The name and address of the financial institution in which it maintains a preneed trust account and the account numbers of such trust accounts;
(2) The trust fund balance as reported in the previous year's report;
(3) The current face value of the trust fund;
(4) Principal contributions received by the trustee since the previous report;
(5) Total trust earnings and total distributions to the seller since the previous report;
(6) Authorization of the board to request from the trustee a copy of any trust statement, as part of an investigation, examination or audit of the preneed seller;

(7) Total expenses, excluding distributions to the seller, since the previous report; and
(8) Certification under oath that the information required by subdivisions (1) to (7) of this subsection is complete and correct and attested to by a corporate officer of the trustee. The trustee shall be subject to the penalty of making a false affidavit or declaration.

3. A seller that sells or who has sold joint account-funded preneed contracts shall also include in the annual report required by subsection 1 of this section:

(1) The name and address of the financial institution in Missouri in which it maintains the joint account and the account numbers for each joint account;
(2) The amount on deposit in each joint account;
(3) The joint account balance as reported in the previous year's report;
(4) Principal contributions placed into each joint account since the filing of the previous report;
(5) Total earnings since the previous report;
(6) Total distributions to the seller from each joint account since the previous report;
(7) Total expenses deducted from the joint account, excluding distributions to the seller, since the previous report; and
(8) Certification under oath that the information required by subdivisions (1) to (7) of this subsection is complete and correct and attested to by an authorized representative of the financial institution. The affiant shall be subject to the penalty of making a false affidavit or declaration.

4. A seller that sells or who has sold any insurance-funded preneed contracts shall also include in the annual report required by subsection 1 of this section:

(1) The name and address of each insurance company issuing insurance to fund a preneed contract sold by the seller during the preceding year;
(2) The status and total face value of each policy;
(3) The amount of funds the seller directly received on each contract and the date the amount was forwarded to any insurance company; and
(4) Certification under oath that the information required by subsections 1 to 3 of this section is complete and correct attested to by an authorized representative of the insurer. The affiant shall be subject to the penalty of making a false affidavit or declaration.

5. Each seller shall remit an annual reporting fee in an amount established by the board by rule for each preneed contract sold in the year since the date the seller filed its last annual report with the board. This reporting fee shall be paid annually and may be collected from the purchaser of the preneed contract as an additional charge or remitted to the board from the funds of the seller. The reporting fee shall be in addition to any other fees authorized under sections 436.400 to 436.520.

6. All reports required by this section shall be filed by the thirty-first day of October of each year or by the date established by the board by rule. Annual reports filed after the date provided herein shall be subject to a late fee in an amount established by rule of the board.

7. If a seller fails to file the annual report on or before its due date, his or her preneed seller license shall automatically be suspended until such time as the annual report is filed and all applicable fees have been paid.

8. This section shall apply to contracts entered into before August 28, 2009.

(L. 2009 S.B. 1)
**Word "preened" appears in original rolls.*
***Words "section 1" appear in original rolls*

436.465. Record-keeping requirements of seller. — A seller shall maintain:

(1) Adequate records of all preneed contracts and related agreements with providers, trustees of a preneed trust, and financial institutions holding a joint account established under sections 436.400 to 436.520;
(2) Records of preneed contracts, including financial institution statements and death certificates, shall be maintained by the seller for the duration of the contract and for no less than five years after the performance or cancellation of the contract.

(L. 2009 S.B. 1)

436.470. Complaint procedure — violation, attorney general may file court action. — 1. Any person may

file a complaint with the board to notify the board of an alleged violation of this chapter. The board shall investigate each such complaint.

2. The board shall have authority to conduct inspections and investigations of providers, sellers, and preneed agents and conduct financial examinations of the books and records of providers, sellers, and preneed agents and any trust or joint account to determine compliance with sections 436.400 to 436.520, or to determine whether grounds exist for disciplining a person licensed or registered under sections 333.310 to 333.340, at the discretion of the board and with or without cause. The board shall conduct a financial examination of the books and records of each seller as authorized by this section at least once every five years, subject to available funding.

3. Upon determining that an inspection, investigation, examination, or audit shall be conducted, the board shall issue a notice authorizing an employee or other person appointed by the board to perform such inspection, investigation, examination, or audit. The notice shall instruct the person appointed by the board as to the scope of the inspection, investigation, examination or audit.

4. The board shall not appoint or authorize any person to conduct an inspection, investigation, examination, or audit under this section if the individual has a conflict of interest or is affiliated with the management of, or owns a pecuniary interest in, any person subject to inspection, investigation, examination, or audit under chapter 333 or sections 436.400 to 436.520.

5. The board may request that the director of the division of professional registration, the director of the department of commerce and insurance, or the office of the attorney general designate one or more investigators or financial examiners to assist in any investigation, examination, or audit, and such assistance shall not be unreasonably withheld.

6. The person conducting the inspection, investigation, or audit may enter the office, premises, establishment, or place of business of any seller or licensed provider of preneed contracts, or any office, premises, establishment, or place where the practice of selling or providing preneed funerals is conducted, or where such practice is advertised as being conducted for the purpose of conducting the inspection, investigation, examination, or audit.

7. Upon request by the board, a licensee or registrant shall make the books and records of the licensee or registrant available to the board for inspection and copying at any reasonable time, including, any insurance, trust, joint account, or financial institution records deemed necessary by the board to determine compliance with sections 436.400 to 436.520.

8. The board shall have the power to issue subpoenas to compel the production of records and papers by any licensee, trustee or registrant of the board. Subpoenas issued under this section shall be served in the same manner as subpoenas in a criminal case.

9. All sellers, providers, preneed agents, and trustees shall cooperate with the board or its designee, the division of finance, the department of commerce and insurance, and the office of the attorney general in any inspection, investigation, examination, or audit brought under this section.

10. This section shall not be construed to limit the board's authority to file a complaint with the administrative hearing commission charging a licensee or registrant with any actionable conduct or violation, regardless of whether such complaint exceeds the scope of acts charged in a preliminary public complaint filed with the board and whether any public complaint has been filed with the board.

11. The board, the division of finance, the department of commerce and insurance, and the office of the attorney general may share information relating to any preneed inspection, investigation, examination, or audit.

12. If an inspection, investigation, examination, or audit reveals a violation of sections 436.400 to 436.520, the office of the attorney general may initiate a judicial proceeding to:

(1) Declare rights;
(2) Approve a nonjudicial settlement;
(3) Interpret or construe the terms of the trust;
(4) Determine the validity of a trust or of any of its terms;
(5) Compel a trustee to report or account;
(6) Enjoin a seller, provider, or preneed agent from performing a particular act;
(7) Enjoin a trustee from performing a particular act or grant to a trustee any necessary or desirable power;
(8) Review the actions of a trustee, including the exercise of a discretionary power;

(9) Appoint or remove a trustee;
(10) Determine trustee liability and grant any available remedy for a breach of trust;
(11) Approve employment and compensation of preneed agents;
(12) Determine the propriety of investments;
(13) Determine the timing and quantity of distributions and dispositions of assets; or
(14) Utilize any other power or authority vested in the attorney general by law.

(L. 2009 S.B. 1)

436.480. Death or incapacity of purchaser, transfer of rights and remedies, to whom. — Upon the death or legal incapacity of a purchaser, all rights and remedies granted to the purchaser under sections 436.400 to 436.520 shall be enforceable by and accrue to the benefit of the purchaser's legal representative or his or her estate, and all payments otherwise payable to the purchaser shall be paid to that person.

(L. 2009 S.B. 1)

436.485. Violations, penalties. — 1. Any person, including the officers, directors, partners, agents, or employees of such person, who shall knowingly and willfully violate or assist or enable any person to violate any provision of sections 436.400 to 436.520 by incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty is guilty of a class D felony. Each violation of any provision of sections 436.400 to 436.520 constitutes a separate offense and may be prosecuted individually. The attorney general shall have concurrent jurisdiction with any local prosecutor to prosecute under this section.

2. Any violation of the provisions of sections 436.400 to 436.520 shall constitute a violation of the provisions of section 407.020. In any proceeding brought by the attorney general for a violation of the provisions of sections 436.400 to 436.520, the court may order all relief and penalties authorized under chapter 407 and, in addition to imposing the penalties provided for in sections 436.400 to 436.520, order the revocation or suspension of the license or registration of a defendant seller, provider, or preneed agent.

(L. 2009 S.B. 1, A.L. 2014 S.B. 491)
Effective 1-01-17

436.490. Sale of business assets of provider — report to board required, contents. — 1. A provider that intends to sell or otherwise dispose of all or a majority of its business assets, or its stock if a corporation, shall notify the board at least sixty days prior to selling or otherwise disposing of its business assets or stock, or ceasing to do business as a provider, and shall file a notification report on a form established by the board.

2. The report required by this section shall include:

(1) The name, phone number, and address of the purchasers of any outstanding preneed contract for which the licensee is the designated provider;
(2) The name and license numbers of all sellers authorized to designate the licensee as a provider in a preneed contract;
(3) The name, address, and license number of the provider assuming or agreeing to assume the licensee's obligations as a provider under a preneed contract, if any;
(4) The name, address, and phone number of a custodian who will maintain the books and records of the provider containing information about preneed contracts in which the licensee is or was formerly designated as provider;
(5) A final annual report containing the information required by section 436.460;
(6) The date the provider intends to sell or otherwise dispose of its business assets or stock, or cease doing business; and
(7) Any other information required by any other applicable statute or regulation enacted pursuant to state or federal law.

3. Within three days after the provider sells or disposes of its assets or stock or ceases doing business, the former provider shall notify each seller in writing that the former provider has sold or disposed of its assets or stock or has ceased doing business.

(L. 2009 S.B. 1)

436.500. Sale of business assets by seller, report to board required, contents. — 1. A seller that intends

to sell or otherwise dispose of all or a majority of its business assets or its stock shall notify the board at least sixty days prior to selling or otherwise disposing of its assets or stock, or ceasing to do business as a seller, and shall file a notification report on a form established by the board.

2. The report required by this section shall include:

(1) A notarized and signed statement from the person assuming or agreeing to assume the obligations of the seller indicating that the assuming seller has been provided with a copy of the seller's final annual report and has consented to assuming the outstanding obligations of the seller;
(2) In lieu of the notarized statement required by subdivision (1) of this subsection, the seller may file a plan detailing how the assets of the seller will be set aside and used to service all outstanding preneed contracts sold by the seller; and
(3) Any other information required by any other applicable statute or regulation enacted pursuant to state or federal law.

3. Within thirty days after assuming the obligations of a seller under this section, the assuming seller shall:

(1) Notify each provider in writing that the former seller has sold or disposed of its assets or stock or has ceased doing business; and
(2) Provide written notification to the purchasers of each preneed contract assumed by the seller indicating that the former seller has transferred ownership or has ceased doing business.

4. Nothing in this section shall be construed to require the board to audit, inspect, investigate, examine, or edit the books and records of a seller subject to the provisions of this section nor shall this section be construed to amend, rescind, or supersede any duty imposed on, or due diligence required of, an entity assuming the obligations of the seller.

5. The office of the attorney general shall have the authority to initiate legal action to compel or otherwise ensure compliance with this section by a former provider licensee.

(L. 2009 S.B. 1)

436.505. Credit life insurance may be offered to purchaser. — A preneed contract may offer the purchaser the option to acquire and maintain credit life insurance on the life of the purchaser. Such insurance shall provide for the payment of death benefits to the seller in an amount equal to the total of all contract payments unpaid as of the date of such purchaser's death, and shall be used solely to make those unpaid payments. Any such credit life insurance shall be provided by a duly authorized insurance company and the preneed contract shall clearly identify the name of the insurer and the amount of payment allocated to the premium payment for the credit life. No seller or provider may provide any form of self insured credit life.

(L. 2009 S.B. 1)

436.510. Seller's failure to make timely payment, effect of — rights of purchaser. — If a seller shall fail to make timely payment of an amount due a purchaser or a provider under the provisions of sections 436.400 to 436.520, the purchaser or provider, as appropriate, shall have the right, in addition to other rights and remedies against such seller, to make demand upon the trustee of the preneed trust for the contract to distribute to the purchaser or provider from the trust, as damages, an amount equal to all deposits made into the trust for the contract.

(L. 2009 S.B. 1)

436.520. Rulemaking authority. — 1. The board shall promulgate and enforce rules for administration and enforcement of sections 436.400 to 436.520 including the establishment of the amount of any fees authorized thereunder for the transaction of its business and for standards of service and practice to be followed for the licensing and registration of providers, sellers, and preneed agents deemed necessary for the public good and consistent with the laws of this state. Such fees shall be set at a level to produce revenue which does not substantially exceed the cost and expense of administering this chapter.

2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to

disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

(L. 2009 S.B. 1)

436.525. Board to maintain certain personal information about purchaser — confidentiality of information. — The board shall maintain as a closed and confidential record, not subject to discovery unless the person provides written consent for disclosure, all personal information about any individual preneed purchaser or beneficiary, including but not limited to name, address, Social Security number, financial institution account numbers, and any health information disclosed in the preneed contract or any document prepared in conjunction with the preneed contract; provided, however, that the board may disclose such confidential information without the consent of the person involved in the course of voluntary interstate exchange of information; or in the course of any litigation concerning that person or the provider, seller, or sales agent involved with the preneed contract; or pursuant to a lawful request or to other administrative or law enforcement agencies acting within the scope of their statutory authority. In any such litigation, the board and its attorneys shall take reasonable precautions to ensure the protection of such information from disclosure to the public.

(L. 2009 S.B. 1 § 1)

DHSS Statutes – Chapter 193

193.015. Definitions. — As used in sections 193.005 to 193.325, unless the context clearly indicates otherwise, the following terms shall mean:

(1) **"Advanced practice registered nurse"**, a person licensed to practice as an advanced practice registered nurse under chapter 335, and who has been delegated tasks outlined in section 193.145 by a physician with whom they have entered into a collaborative practice arrangement under chapter 334;
(2) **"Assistant physician"**, as such term is defined in section 334.036, and who has been delegated tasks outlined in section 193.145 by a physician with whom they have entered into a collaborative practice arrangement under chapter 334;
(3) **"Dead body"**, a human body or such parts of such human body from the condition of which it reasonably may be concluded that death recently occurred;
(4) **"Department"**, the department of health and senior services;
(5) **"Final disposition"**, the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or fetus;
(6) **"Institution"**, any establishment, public or private, which provides inpatient or outpatient medical, surgical, or diagnostic care or treatment or nursing, custodian, or domiciliary care, or to which persons are committed by law;
(7) **"Live birth"**, the complete expulsion or extraction from its mother of a child, irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;
(8) **"Physician"**, a person authorized or licensed to practice medicine or osteopathy pursuant to chapter 334;
(9) **"Physician assistant"**, a person licensed to practice as a physician assistant pursuant to chapter 334, and who has been delegated tasks outlined in section 193.145 by a physician with whom they have entered into a collaborative practice arrangement under chapter 334;
(10) **"Spontaneous fetal death"**, a noninduced death prior to the complete expulsion or extraction from its mother of a fetus, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles;
(11) **"State registrar"**, state registrar of vital statistics of the state of Missouri;
(12) **"System of vital statistics"**, the registration, collection, preservation, amendment and certification of vital records; the collection of other reports required by sections 193.005 to 193.325 and section 194.060; and activities related thereto including the tabulation, analysis and publication of vital statistics;
(13) **"Vital records"**, certificates or reports of birth, death, marriage, dissolution of marriage and data related thereto;
(14) **"Vital statistics"**, the data derived from certificates and reports of birth, death, spontaneous fetal death, marriage, dissolution of marriage and related reports.

(L. 1984 S.B. 574, A.L. 2005 S.B. 74 & 49, A.L. 2015 H.B. 618, A.L. 2019 S.B. 514)

193.145. Death certificate — electronic system — contents, filing, locale, duties of certain persons, time allowed — certificate marked presumptive, when — training, failure to complete, effect of. — 1. A certificate of death for each death which occurs in this state shall be filed with the local registrar, or as otherwise directed by the state registrar, within five days after death and shall be registered if such certificate has been completed and filed pursuant to this section. All data providers in the death registration process, including, but not limited to, the state registrar, local registrars, the state medical examiner, county medical examiners, coroners, funeral directors or persons acting as such, embalmers, sheriffs, attending physicians and resident physicians, physician assistants, assistant physicians, advanced practice registered nurses, and the chief medical officers of licensed health care facilities, and other public or private institutions providing medical care, treatment, or confinement to persons, shall be required to use and utilize any electronic death registration system required and adopted under subsection 1 of section 193.265 within six months of the system being certified by the director of the department of health and senior services, or the director's designee, to be operational and available to all data providers in the death registration process.

2. If the place of death is unknown but the dead body is found in this state, the certificate of death shall be com-

pleted and filed pursuant to the provisions of this section. The place where the body is found shall be shown as the place of death. The date of death shall be the date on which the remains were found.

3. When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where the body is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this state, the death shall be registered in this state but the certificate shall show the actual place of death if such place may be determined.

4. The funeral director or person in charge of final disposition of the dead body shall file the certificate of death. The funeral director or person in charge of the final disposition of the dead body shall obtain or verify and enter into the electronic death registration system:

(1) The personal data from the next of kin or the best qualified person or source available;
(2) The medical certification from the person responsible for such certification if designated to do so under subsection 5 of this section; and
(3) Any other information or data that may be required to be placed on a death certificate or entered into the electronic death certificate system including, but not limited to, the name and license number of the embalmer.

5. The medical certification shall be completed, attested to its accuracy either by signature or an electronic process approved by the department, and returned to the funeral director or person in charge of final disposition within seventy-two hours after death by the physician, physician assistant, assistant physician, or advanced practice registered nurse in charge of the patient's care for the illness or condition which resulted in death. In the absence of the physician, physician assistant, assistant physician, or advanced practice registered nurse or with the physician's, physician assistant's, assistant physician's, or advanced practice registered nurse's approval the certificate may be completed and attested to its accuracy either by signature or an approved electronic process by the physician's associate physician, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided such individual has access to the medical history of the case, views the deceased at or after death and death is due to natural causes. The person authorized to complete the medical certification may, inwriting, designate any other person to enter the medical certification information into the electronic death registration system if the person authorized to complete the medical certificate has physically or by electronic process signed a statement stating the cause of death. Any persons completing the medical certification or entering data into the electronic death registration system shall be immune from civil liability for such certification completion, data entry, or determination of the cause of death, absent gross negligence or willful misconduct. The state registrar may approve alternate methods of obtaining and processing the medical certification and filing the death certificate. The Social Security number of any individual who has died shall be placed in the records relating to the death and recorded on the death certificate.

6. When death occurs from natural causes more than thirty-six hours after the decedent was last treated by a physician, physician assistant, assistant physician, or advanced practice registered nurse, the case shall be referred to the county medical examiner or coroner or physician or local registrar for investigation to determine and certify the cause of death. If the death is determined to be of a natural cause, the medical examiner or coroner or local registrar shall refer the certificate of death to the attending physician, physician assistant, assistant physician, or advanced practice registered nurse for such certification. If the attending physician, physician assistant, assistant physician, or advanced practice registered nurse refuses or is otherwise unavailable, the medical examiner or coroner or local registrar shall attest to the accuracy of the certificate of death either by signature or an approved electronic process within thirty-six hours.

7. If the circumstances suggest that the death was caused by other than natural causes, the medical examiner or coroner shall determine the cause of death and shall, either by signature or an approved electronic process, complete and attest to the accuracy of the medical certification within seventy-two hours after taking charge of the case.

8. If the cause of death cannot be determined within seventy-two hours after death, the attending medical examiner, coroner, attending physician, physician assistant, assistant physician, advanced practice registered nurse, or local registrar shall give the funeral director, or person in charge of final disposition of the dead body, notice of the reason for the delay, and final disposition of the body shall not be made until authorized by the

medical examiner, coroner, attending physician, physician assistant, assistant physician, advanced practice registered nurse, or local registrar.

9. When a death is presumed to have occurred within this state but the body cannot be located, a death certificate may be prepared by the state registrar upon receipt of an order of a court of competent jurisdiction which shall include the finding of facts required to complete the death certificate. Such a death certificate shall be marked "Presumptive", show on its face the date of registration, and identify the court and the date of decree.

10. (1) The department of health and senior services shall notify all physicians, physician assistants, assistant physicians, and advanced practice registered nurses licensed under chapters 334 and 335 of the requirements regarding the use of the electronic vital records system provided for in this section.

(2) On or before August 30, 2015, the department of health and senior services, division of community and public health shall create a working group comprised of representation from the Missouri electronic vital records system users and recipients of death certificates used for professional purposes to evaluate the Missouri electronic vital records system, develop recommendations to improve the efficiency and usability of the system, and to report such findings and recommendations to the general assembly no later than January 1, 2016.

11. Notwithstanding any provision of law to the contrary, if a coroner or deputy coroner is not current with or is without the approved training under chapter 58, the department of health and senior services shall prohibit such coroner from attesting to the accuracy of a certificate of death. No person elected or appointed to the office of coroner can assume such elected office until the training, as established by the coroner standards and training commission under the provisions of section 58.035, has been completed and a certificate of completion has been issued. In the event a coroner cannot fulfill his or her duties or is no longer qualified to attest to the accuracy of a death certificate, the sheriff of the county shall appoint a medical professional to attest death certificates until such time as the coroner can resume his or her duties or another coroner is appointed or elected to the office.

(L. 1984 S.B. 574, A.L. 1989 S.B. 389, A.L. 1997 S.B. 361, A.L. 2005 S.B. 74 & 49, A.L. 2010 H.B. 1692, et al. merged with S.B. 754, A.L. 2013 S.B. 186, A.L. 2015 H.B. 618, A.L. 2020 H.B. 2046, A.L. 2023 S.B. 157)

193.155. Delayed filing, registration. — 1. When a death occurring in this state has not been registered within the time period prescribed by section 193.145, a certificate of death may be filed in accordance with department rules. Such certificate shall be registered subject to such evidentiary requirements as the department shall prescribe to substantiate the alleged facts of death.

2. Certificates of death registered one year or more after the date of death shall be marked "Delayed" and shall show on their face the date of the delayed registration.

(L. 1984 S.B. 574)

193.165. Spontaneous fetal death report — release of reports — application for certificate of birth resulting in stillbirth, procedure. — 1. Each spontaneous fetal death of twenty completed weeks gestation or more, calculated from the date the last normal menstrual period began to the date of delivery, or a weight of three hundred fifty grams or more, which occurs in this state shall be reported within seven days after delivery to the local registrar or as otherwise directed by the state registrar.

2. When a dead fetus is delivered in an institution, the person in charge of the institution or his or her designated representative shall prepare and file the report.

3. When a dead fetus is delivered outside an institution, the physician in attendance at or immediately after delivery shall prepare and file the report.

4. When a spontaneous fetal death required to be reported by this section occurs without medical attendance at or immediately after the delivery or when inquiry is required by the medical examiner or coroner, the medical examiner or coroner shall investigate the cause of spontaneous fetal death and shall prepare and file the report within seven days.

5. When a spontaneous fetal death occurs in a moving conveyance and the fetus is first removed from the conveyance in this state or when a dead fetus is found in this state and the place of the spontaneous fetal death is unknown, the spontaneous fetal death shall be reported in this state. The place where the fetus was first removed from the conveyance or the dead fetus was found shall be considered the place of the spontaneous

fetal death.

6. Notwithstanding any provision of law to the contrary, individuals with direct and tangible interest, as defined by the department of health and senior services, may receive the spontaneous fetal death report.

7. In the event of a spontaneous fetal death, regardless of whether such death occurs before or after August 28, 2004, either parent, or if both parents are deceased, a sibling of the stillborn child, shall have the right to file an application with the state registrar and other custodians of vital records requesting a certificate of birth resulting in stillbirth. The certificate shall be based upon the information available from the spontaneous fetal death report filed pursuant to this section.

(L. 1984 S.B. 574, A.L. 1999 S.B. 25, A.L. 2004 H.B. 1136)

193.175. Person in charge of final disposition of dead body to affix tag with identifying information, requirements. — The funeral director or person in charge of final disposition of a dead body shall, prior to the interment of such dead body, affix on the ankle or wrist of the deceased and/or in a capsule or other container placed in the casket or, if the dead body is cremated, on the inside of the vessel containing the remains, a tag encased in durable and long-lasting material containing the name of the deceased, the date of birth, date of death and Social Security number of the deceased.

(L. 1984 S.B. 574, A.L. 1994 S.B. 553, A.L. 2023 S.B. 116)

193.235. Probative value of delayed or altered certificates. — The probative value of a delayed or altered certificate shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.

(L. 1984 S.B. 574)

193.255. Certified copies of vital records, issuance — probative value — cooperation with federal agencies and other states — issuance of certificate of birth resulting in stillbirth, when. — 1. The state registrar and other custodians of vital records authorized by the state registrar to issue certified copies of vital records upon receipt of application shall issue a certified copy of any vital record in his custody or a part thereof to any applicant having a direct and tangible interest in the vital record. Each copy issued shall show the date of registration, and copies issued from records marked “Delayed” or “Amended” shall be similarly marked and show the effective date. The documentary evidence used to establish a delayed certificate shall be shown on all copies issued. All forms and procedures used in the issuance of certified copies of vital records in the state shall be provided or approved by the state registrar.

2. A certified copy of a vital record or any part thereof, issued in accordance with subsection 1 of this section, shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein, provided that the evidentiary value of a certificate or record filed more than one year after the event, or a record which has been amended, shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.

3. The federal agency responsible for national vital statistics may be furnished such copies or data from the system of vital statistics as it may require for national statistics, provided such federal agency share in the cost of collecting, processing, and transmitting such data, and provided further that such data shall not be used for other than statistical purposes by the federal agency unless so authorized by the state registrar.

4. Federal, state, local and other public or private agencies may, upon request, be furnished copies or data of any other vital statistics not obtainable under subsection 1 of this section for statistical or administrative purposes upon such terms or conditions as may be prescribed by regulation, provided that such copies or data shall not be used for purposes other than those for which they were requested unless so authorized by the state registrar.

5. The state registrar may, by agreement, transmit copies of records and other reports required by sections 193.005 to 193.325 to offices of vital statistics outside this state when such records or other reports relate to residents of those jurisdictions or persons born in those jurisdictions. This agreement shall require that the copies be used for statistical and administrative purposes only, and the agreement shall further provide for the retention and disposition of such copies. Copies received by the department from offices of vital statistics in other states shall be handled in the same manner as prescribed in this section.

6. No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a vital record except as authorized herein or by regulations adopted hereunder.

7. Upon application from either parent, or if both parents are deceased, the sibling of the stillborn child, pursuant to subsection 7 of section 193.165, the state registrar or other custodians of vital records shall issue to such applicant a certificate of birth resulting in stillbirth. The certificate shall be based upon the information available from the spontaneous fetal death report filed pursuant to section 193.165. Any certificate of birth resulting in stillbirth issued shall conspicuously include, in no smaller than twelve-point type, the statement "This is not proof of a live birth.". No certificate of birth resulting in stillbirth shall be issued to any person other than a parent, or if both parents are deceased, the sibling of the stillborn child who files an application pursuant to section 193.165. The state registrar or other custodians of vital records are* authorized to charge a minimal fee to such applicant to cover the actual costs of providing the certificate pursuant to this section.

8. Any parent, or if both parents are deceased, any sibling of the stillborn child may file an application for a certificate of birth resulting in stillbirth for a birth that resulted in stillbirth prior to August 28, 2004.

(L. 1984 S.B. 574, A.L. 2004 H.B. 1136)
**Word "is" appears in original rolls*

193.265. Fees for certification and other services — distribution — services free, when. — 1. For the issuance of a certification or copy of a death record, the applicant shall pay a fee of fourteen dollars for the first certification or copy and a fee of eleven dollars for each additional copy ordered at that time. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars. No fee shall be required or collected for a certification of birth, death, or marriage if the request for certification is made by the children's division, the division of youth services, a guardian ad litem, or a juvenile officer on behalf of a child or person under twenty-one years of age who has come under the jurisdiction of the juvenile court under section 211.031. All fees collected under this subsection shall be deposited to the state department of revenue. Beginning August 28, 2004, for each vital records fee collected, the director of revenue shall credit four dollars to the general revenue fund, five dollars to the children's trust fund, one dollar shall be credited to the endowed care cemetery audit fund, one dollar for each certification or copy of death records to the Missouri state coroners' training fund established in section 58.208, and three dollars for the first copy of death records and five dollars for birth, marriage, divorce, and fetal death records shall be credited to the Missouri public health services fund established in section 192.900. Money in the endowed care cemetery audit fund shall be available by appropriation to the division of professional registration to pay its expenses in administering sections 214.270 to 214.410. All interest earned on money deposited in the endowed care cemetery audit fund shall be credited to the endowed care cemetery fund. Notwithstanding the provisions of section 33.080 to the contrary, money placed in the endowed care cemetery audit fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the endowed care cemetery audit fund for the preceding fiscal year. The money deposited in the public health services fund under this section shall be deposited in a separate account in the fund, and moneys in such account, upon appropriation, shall be used to automate and improve the state vital records system, and develop and maintain an electronic birth and death registration system. For any search of the files and records, when no record is found, the state shall be entitled to a fee equal to the amount for a certification of a vital record for a five-year search to be paid by the applicant. For the processing of each legitimation, adoption, court order or recording after the registrant's twelfth birthday, the state shall be entitled to a fee equal to the amount for a certification of a vital record. Except whenever a certified copy or copies of a vital record is required to perfect any claim of any person on relief, or any dependent of any person who was on relief for any claim upon the government of the state or United States, the state registrar shall, upon request, furnish a certified copy or so many certified copies as are necessary, without any fee or compensation therefor.

2. For the issuance of a certification of a death record by the local registrar, the applicant shall pay a fee of fourteen dollars for the first certification or copy and a fee of eleven dollars for each additional copy ordered at that time. For each fee collected under this subsection, one dollar shall be deposited to the state department of revenue and the remainder shall be deposited to the official city or county health agency. The director of revenue shall credit all fees deposited to the state department of revenue under this subsection to the Missouri state coroners' training fund established in section 58.208.

3. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars; except that, in any county with a charter form of government and with more

than six hundred thousand but fewer than seven hundred thousand inhabitants, a donation of one dollar may be collected by the local registrar over and above any fees required by law when a certification or copy of any marriage license or birth certificate is provided, with such donations collected to be forwarded monthly by the local registrar to the county treasurer of such county and the donations so forwarded to be deposited by the county treasurer into the housing resource commission fund to assist homeless families and provide financial assistance to organizations addressing homelessness in such county. The local registrar shall include a check-off box on the application form for such copies. All fees collected under this subsection, other than the donations collected in any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants for marriage licenses and birth certificates, shall be deposited to the official city or county health agency.

4. A certified copy of a death record by the local registrar can only be issued after acceptance and registration with the state registrar. The fees paid to the official county health agency shall be retained by the local agency for local public health purposes.

5. No fee under this section shall be required or collected from a parent or guardian of a homeless child or homeless youth, as defined in subsection 1 of section 167.020, or an unaccompanied youth, as defined in 42 U.S.C. Section 11434a(6), for the issuance of a certification, or copy of such certification, of birth of such child or youth. An unaccompanied youth shall be eligible to receive a certification or copy of his or her own birth record without the consent or signature of his or her parent or guardian; provided, that only one certificate under this provision shall be provided without cost to the unaccompanied or homeless youth. For the issuance of any additional certificates, the statutory fee shall be paid.

6. (1) Notwithstanding any provision of law to the contrary, no fee shall be required or collected for a certification of birth if the request is made by a victim of domestic violence or abuse, as those terms are defined in section 455.010, and the victim provides documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a health care or mental health professional, from whom the victim has sought assistance relating to the domestic violence or abuse. Such documentation shall state that, under penalty of perjury, the employee, agent, or volunteer of a victim service provider, the attorney, or the health care or mental health professional believes the victim has been involved in an incident of domestic violence or abuse.

(2) A victim may be eligible only one time for a fee waiver under this subsection.

(L. 1984 S.B. 574, A.L. 1985 S.B. 263, A.L. 1990 H.B. 1079, A.L. 1992 H.B. 894, A.L. 1999 H.B. 343, A.L. 2004 H.B. 795, et al., A.L. 2010 H.B. 1643 merged with H.B. 1692, et al. merged with S.B. 754, A.L. 2018 S.B. 819, A.L. 2020 H.B. 1414 merged with H.B. 2046, A.L. 2023 S.B. 28 merged with S.B. 157)

193.275. Records to be kept by institutions and others — period — power of registrar to demand information. — 1. Every person in charge of an institution shall keep a record of data concerning each person admitted or confined to such institution as may be required for the filing of a certificate of birth and death or report of spontaneous fetal death which occurs in the institution. The record shall be made from information provided by the person being admitted or confined, but when it cannot be so obtained, the information shall be obtained from relatives or other persons acquainted with the facts. The name and address of the person providing the information shall be a part of the record.

2. When a dead body or dead fetus is released or disposed of by an institution, the person in charge of the institution shall keep a record showing the name of the decedent, date of death, name and address of the person to whom the body or fetus is released, and the date of removal from the institution. If final disposition is made by the institution, the date, place, and manner of disposition shall also be recorded.

3. A funeral director, embalmer, sexton, or other person who removes from the place of death, transports, or makes final disposition of a dead body or fetus, in addition to filing any certificate or other report required by sections 193.005 to 193.325, or regulations promulgated hereunder, shall keep a record which shall identify the body, and such information pertaining to his receipt, removal, delivery, burial, or cremation of such body as may be required by regulations adopted by the department.

4. Records maintained under this section shall be retained for a period of not less than five years and shall be made available for inspection by the state registrar or his designee upon demand.

5. Any person having knowledge of the facts shall furnish such information as he may possess regarding any birth, death, spontaneous fetal death, marriage, or dissolution of marriage upon demand of the state registrar.

(L. 1984 S.B. 574)

193.315. Acts which constitute crimes. — 1. Any person who knowingly makes any false statement in a certificate, record, or report required by this chapter or in an application for an amendment thereof, or in an application for a certified copy of a vital record, or who knowingly supplies false information intending that such information be used in the preparation of any such report, record, or certificate, or amendment thereof shall be guilty of a class E felony.

2. Any person who, without lawful authority and with the intent to deceive, makes, counterfeits, alters, amends, or mutilates any certificate, record, or report required by this chapter, certified copy of such certificate, record, or report shall be guilty of a class E felony.

3. Any person who knowingly obtains, possesses, uses, sells, furnishes or attempts to obtain, possess, use, sell, or furnish to another, for any purpose of deception, any certificate, record, or report required by this chapter or certified copy thereof so made, counterfeited, altered, amended, or mutilated, or which is false in whole or in part or which relates to the birth of another person, whether living or deceased, shall be guilty of a class E felony.

4. Any employee of the department or involved with the system of vital statistics who knowingly furnishes or processes a certificate of birth, or certified copy of a certificate of birth, with the knowledge or intention that it be used for the purposes of deception shall be guilty of a class E felony.

5. Any person who without lawful authority possesses any certificate, record, or report, required by this chapter or a copy or certified copy of such certificate, record, or report knowing same to have been stolen, or otherwise unlawfully obtained, shall be guilty of a class E felony.

6. Any person who knowingly refuses to provide information required by this chapter, or regulations adopted hereunder, shall be guilty of a class A misdemeanor.

7. Any person who knowingly neglects or violates any of the provisions of this chapter or refuses to perform any of the duties imposed upon him by this chapter shall be guilty of a class A misdemeanor.

(L. 1984 S.B. 574, A.L. 2014 S.B. 491)
Effective 1-01-17

DHSS Statutes – Chapter 194

Missouri Department of Health & Senior Services
Transportation and Disposition of Dead Bodies

Transportation

194.005. Death, legal definition. — For all legal purposes, the occurrence of human death shall be determined in accordance with the usual and customary standards of medical practice, provided that death shall not be determined to have occurred unless the following minimal conditions have been met:

(1) When respiration and circulation are not artificially maintained, there is an irreversible cessation of spontaneous respiration and circulation; or
(2) When respiration and circulation are artificially maintained, and there is a total and irreversible cessation of all brain function, including the brain stem and that such determination is made by a licensed physician.

(L. 1982 H.B. 1223 § 1)

194.010. Shipment by common carrier, rules. — The department of health and senior services shall issue regulations setting forth health and safety requirements for transporting dead human bodies that are placed on common carriers in the state of Missouri.

(RSMo 1939 § 9788, A.L. 2023 S.B. 116)
Prior revisions: 1929 § 9067; 1919 § 5823; 1909 § 6691

194.105. Disinterment for transport to location outside original cemetery — notice, to whom. — In addition to any records filed pursuant to chapter 193, any person or owner or operator of any cemetery which removes any body which has been properly buried or interred for transportation to a location outside the original cemetery shall, prior to such disinterment, file notice with the county coroner or county medical examiner.

(L. 1989 S.B. 389, A.L. 1990 H.B. 1079, A.L. 2023 S.B. 116)

Autopsies

194.115. Autopsy — consent required — penalty for violation — availability of report, to whom. — 1. Except when ordered or directed by a public officer, court of record or agency authorized by law to order an autopsy or postmortem examination, it is unlawful for any licensed physician and surgeon to perform an autopsy or postmortem examination upon the remains of any person without the consent of one of the following:

(1) The deceased, if in writing, and duly signed and acknowledged prior to his death; or
(2) A person designated by the deceased in a durable power of attorney that expressly refers to the giving of consent to an autopsy or postmortem examination; or
(3) The surviving spouse; or
(4) If the surviving spouse through injury, illness or mental capacity is incapable of giving his or her consent, or if the surviving spouse is unknown, or his or her address unknown or beyond the boundaries of the United States, or if he or she has been separated and living apart from the deceased, or if there is no surviving spouse, then any surviving child, parent, brother or sister, in the order named; or
(5) If no surviving child, parent, brother or sister can be contacted by telephone or telegraph, then any other relative, by blood or marriage; or
(6) If there are no relatives who assume the right to control the disposition of the remains, then any person, friend or friends who assume such responsibility.

2. If an individual through injury, illness, or mental capacity is incapable of giving consent prior to his or her death as contemplated by subdivision (1) of subsection 1 of this section, then any child, parent, brother or sister of said individual may petition the court to order that an autopsy or postmortem examination shall be performed upon the remains of said individual following his or her passing.

3. If the surviving spouse, child, parent, brother or sister hereinabove mentioned is under the age of twenty-one years, but over the age of sixteen years, such minor shall be deemed of age for the purpose of granting the consent hereinabove required.

4. Any licensed physician and surgeon performing an autopsy or postmortem examination with the consent of any of the persons enumerated in subsection 1 of this section shall use his judgment as to the scope and extent to be performed, and shall be in no way liable for such action.

5. It is unlawful for any licensed physician, unless specifically authorized by law, to hold a postmortem examination on any unclaimed dead without the consent required by section 194.170.

6. Any person not a licensed physician performing an autopsy or any licensed physician performing an autopsy without the authorization herein required shall upon conviction be adjudged guilty of a misdemeanor, and subject to the penalty provided for in section 194.180.

7. If an autopsy is performed on a deceased patient and an autopsy report is prepared, such report shall be made available upon request to the personal representative or administrator of the estate of the deceased, the surviving spouse, any surviving child, parent, brother or sister of the deceased.

(L. 1953 p. 629 § 1, A.L. 1961 p. 514, A.L. 1989 H.B. 145, A.L. 2001 S.B. 267, A.L. 2011 S.B. 213)

Sudden Infant Death

194.117. Sudden infant death — notification — autopsy by certified child death pathologist required, procedure, release to parents or guardian — cost, how paid — department of health and senior services duties — rules and regulations. — Any person who discovers the dead body of, or acquires the first knowledge of the death of, any child under the age of one year and over the age of one week, where the child died suddenly when in apparent good health, shall immediately notify the county coroner or medical examiner of the known facts concerning the time, place, manner, and circumstances of the death. All such deaths shall be autopsied by a certified child death pathologist. The coroner or medical examiner shall notify the parent or guardian of the child that an autopsy shall be performed at the expense of the state. The department of health and senior services shall receive prompt notification of such autopsy results. The results from the autopsy shall be reduced to writing and delivered to the state department of health and senior services. The term "sudden infant death syndrome" shall be entered on the death certificate as the principal cause of death where the term is appropriately descriptive of the circumstances surrounding the death of the child. The cost of the autopsy and transportation of the body shall be paid by the department of health and senior services, and the department shall pay, out of appropriations made for that purpose, as a reimbursement to the certified child death pathologist such costs that are within the limitation of maximum rates established by the rules and regulations of the department. Autopsies under this section shall be performed by pathologists deemed qualified to perform autopsies by the department of health and senior services and who agree to perform the autopsy according to protocols developed pursuant to section 210.196. The certified child death pathologist shall ensure that a tangible summary of the autopsy results is provided to the parents or guardian of the child and shall provide informational material on the subject of sudden infant death syndrome to the family within one week after the autopsy is performed. A form letter developed by the department of health and senior services shall include a statement informing the parents or guardian of the right to receive the full autopsy results in cases of suspected sudden infant death syndrome. The certified child death pathologist shall, upon request by the parents or guardian, release the full autopsy results to the parents, guardian or family physician in cases of suspected sudden infant death syndrome within thirty days of such request. The tangible summary and full autopsy report shall be provided at no cost to the parents or guardian. The director of the department of health and senior services shall prescribe reasonable rules and regulations necessary to carry out the provisions of this section, including the establishment of a cost schedule and standards for reimbursement of costs of autopsies performed pursuant to the provisions of this section. The provisions of this section shall not be construed so as to limit, restrict or otherwise affect any power, authority, duty or responsibility imposed by any other provision of law upon any coroner or medical examiner. The department of health and senior services may receive grants of money or other aid from federal and other public and private agencies or individuals for the administration or funding of this section or any portion thereof or for research to determine the cause and prevention of deaths caused by sudden infant death syndrome.

(L. 1978 S.B. 765 § 1, A.L. 1991 H.B. 185, A.L. 1993 S.B. 253 merged with S.B. 394, A.L. 1999 S.B. 25)

Disposition

194.119. Right of sepulcher, the right to choose and control final disposition of a dead human body. — 1. As used in this section, the term **"right of sepulcher"** means the right to choose and control the burial, cremation, or other final disposition of a dead human body.

2. For purposes of this chapter and chapters 193, 333, and 436, and in all cases relating to the custody, control, and disposition of deceased human remains, including the common law right of sepulcher, where not otherwise

defined, the term **"next-of-kin"** means the following persons in the priority listed if such person is eighteen years of age or older, is mentally competent, and is willing to assume responsibility for the costs of disposition:

(1) An attorney in fact designated in a durable power of attorney wherein the deceased specifically granted the right of sepulcher over his or her body to such attorney in fact;

(2) For a decedent who was on active duty in the United States military at the time of death, the person designated by such decedent in the written instrument known as the United States Department of Defense Form 93, Record of Emergency Data, in accordance with 10 U.S.C. Section 1482;

(3) The surviving spouse, unless an action for the dissolution of the marriage has been filed and is pending in a court of competent jurisdiction;

(4) Any surviving child of the deceased. If a surviving child is less than eighteen years of age and has a legal or natural guardian, such child shall not be disqualified on the basis of the child's age and such child's legal or natural guardian, if any, shall be entitled to serve in the place of the child unless such child's legal or natural guardian was subject to an action in dissolution from the deceased. In such event the person or persons who may serve as next-of-kin shall serve in the order provided in subdivisions (5) to (9) of this subsection;

(5) (a) Any surviving parent of the deceased; or

(b) If the deceased is a minor, a surviving parent who has custody of the minor; or

(c) If the deceased is a minor and the deceased's parents have joint custody, the parent whose residence is the minor child's residence for purposes of mailing and education;

(6) Any surviving sibling of the deceased;

(7) The next nearest surviving relative of the deceased by consanguinity or affinity;

(8) Any person or friend who assumes financial responsibility for the disposition of the deceased's remains if no next-of-kin assumes such responsibility;

(9) The county coroner or medical examiner; provided however that such assumption of responsibility shall not make the coroner, medical examiner, the county, or the state financially responsible for the cost of disposition.

3. The next-of-kin of the deceased shall be entitled to control the final disposition of the remains of any dead human being consistent with all applicable laws, including all applicable health codes. The next-of-kin may delegate the control of the final disposition of the remains of any dead human being to an agent through either a specific or general grant of power in accordance with section 404.710 if, at the time of delegation, the next-of-kin was eighteen years of age or older and mentally competent and the principal or agent is taking financial responsibility for the disposition.

4. A funeral director or establishment is entitled to rely on and act according to the lawful instructions of any person claiming to be the next-of-kin of the deceased; provided however, in any civil cause of action against a funeral director or establishment licensed pursuant to this chapter for actions taken regarding the funeral arrangements for a deceased person in the director's or establishment's care, the relative fault, if any, of such funeral director or establishment may be reduced if such actions are taken in reliance upon a person's claim to be the deceased person's next-of-kin.

5. Any person who desires to exercise the right of sepulcher and who has knowledge of an individual or individuals with a superior right to control disposition shall notify such individual or individuals prior to making final arrangements.

6. If an individual with a superior claim is notified in person or by written notice with delivery confirmation to such person's last known address by a person with an inferior claim that such person desires to exercise the right of sepulcher and the individual so served does not object within forty-eight hours of such notice, such individual shall be deemed to have waived such right. An individual with a superior right may also waive such right at any time if such waiver is in writing and dated.

7. If there is more than one person in a class who are equal in priority and the funeral director has no knowledge of any objection by other members of such class, the funeral director or establishment shall be entitled to rely on and act according to the instructions of the first such person in the class to make arrangements; provided that such person assumes responsibility for the costs of disposition and no other person in such class provides written notice of his or her objection. If the funeral director has knowledge that there is more than one person in a class who are equal in priority and who do not agree on the disposition, the decision of the majority of the members of such class shall control the disposition.

8. For purposes of conducting a majority vote under subsection 7 of this section, the funeral director shall allow

voting by proxy using a written authorization or instrument.

(L. 2003 H.B. 394, A.L. 2008 S.B. 788 merged with S.B. 1139, A.L. 2010 H.B. 1524 & 2260, A.L. 2015 H.B. 618, A.L. 2023 S.B. 116)

194.120. Missouri state anatomical board — members — responsibilities. — 1.That the heads of departments of anatomy, professors and associate professors of anatomy at the educational institutions of the state of Missouri which are now or may hereafter become incorporated, and in which said educational institutions human anatomy is investigated or taught to students in attendance at said educational institutions, shall be and hereby are constituted the "Missouri State Anatomical Board", herein referred to in sections 194.120 to 194.180 as "the board".

2. The board shall have exclusive charge and control of the disposal and delivery of dead human bodies, as described in sections 194.120 to 194.180, to and among such educational institutions as under the provisions of said sections are entitled thereto.

3. The secretary of the board shall keep an accurate record of all bodies received and distributed by the board, showing the dates of receipt and distribution, the sources from which they came to the board, and the name and address of the educational institutions to which the same were sent, which record shall be at all times open to the inspection of each member of the board and of any prosecuting attorney or circuit attorney of any county or city within the state of Missouri.

(RSMo 1939 § 9998)
Prior revisions: 1929 § 9128; 1919 § 7343; 1909 § 8324
CROSS REFERENCE:
Board transferred to department of higher education and workforce development by the Reorganization Act of 1974. See section 173.005.

194.150. Disposal of paupers' bodies. — 1. Superintendents or wardens of penitentiaries, houses of correction and bridewells, hospitals, insane asylums and poorhouses, and coroners, sheriffs, jailers, city and county undertakers, and all other state, county, town or city officers having the custody of the body of any deceased person required to be buried at public expense, shall be and hereby are required immediately to notify the secretary of the board, or the person duly designated by the board or by its secretary to receive such notice, whenever any such body or bodies come into his or their custody, charge or control, and shall, without fee or reward, deliver, within a period not to exceed thirty-six hours after death, except in cases within the jurisdiction of a coroner where retention for a longer time may be necessary, such body or bodies into the custody of the board and permit the board or its agent or agents to take and remove all such bodies, or otherwise dispose of them; provided, that each educational institution receiving a body from the board shall hold such body for at least thirty days, during which time any relative or friend of any such deceased person or persons shall have the right to take and receive the dead body from the possession of any person in whose charge or custody it may be found, for the purpose of interment, upon paying the expense of such interment.

2. Each educational institution securing a dead body shall pay all necessary expense incurred in the delivery thereof, including cost of notice to the secretary of the board or his agent, which notice shall be by telegraph, when necessary to insure immediate notice. A correct record of all such bodies, including the name and date of death, shall be kept in a book provided for that purpose by the county clerk of the county in which such person died, and by the city health commissioner of the city of St. Louis, and such record shall be promptly furnished said officer by the person or persons reporting said bodies to the secretary of the board or his agent.

3. Whenever any person fails to give the notice and deliver the body of a deceased person as required by this section, and by reason of such failure such body shall become unfit for anatomical purposes, and is so certified by the duly authorized officer or agent of the board, such body shall be buried at the expense of the person so failing to notify and deliver such body.

(RSMo 1939 § 10000)
Prior revisions: 1929 § 9129; 1919 § 7344; 1909 § 8325

194.170. Autopsy not to be held, when. — Bodies required to be buried at public expense shall be under the exclusive custody and control of the board. It is hereby declared unlawful for any person or persons to hold any autopsy on any dead human body subject to the provisions of sections 194.120 to 194.180 without first having

obtained the consent of the secretary of the board or his accredited agent. The consent of any person for an autopsy on his or her body shall not in any way prevent or affect the application of sections 194.120 to 194.180.

(RSMo 1939 § 10002)
Prior revisions: 1929 § 9132; 1919 § 7347; 1909 § 8328

194.180. Penalty for violation. — Any person violating the provisions of sections 194.120 to 194.180, other than the provision named in section 194.140, for the violation of which special penalties are therein imposed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars nor more than five hundred dollars.

(RSMo 1939 § 10004)
Prior revisions: 1929 § 9134; 1919 § 7349; 1909 § 8330

194.197. Depth at which body is buried may be regulated. — The governing body of every county and every municipality of this state may regulate the depth at which a human body may be buried.

(L. 1985 H.B. 677 § 1)

194.200. Disposition of a stillborn child, definitions, duties of hospital, duties of parents, collection of costs, penalties. — 1. As used in this section, the following terms mean:

(1) **"Final disposition"**, the burial, entombment, cremation, delivery to an educational or medical institution for donation, delivery to the state anatomical board or removal from the state of the remains of a deceased person;
(2) **"Parents"**, either or both the biological mother or father of a stillborn child, but such term shall not include an unknown or unidentified biological father;
(3) **"Stillborn child"**, a child who is dead at birth.

2. If a hospital or other health care facility transfers a stillborn child to a funeral establishment for final disposition, the hospital or health care facility shall contact one or both of the parents of such child within twenty-four hours of such transfer for instructions on the method of final disposition of the child. If the hospital contacts and receives instructions from at least one of the parents, the hospital shall convey such instructions to the funeral establishment which shall proceed as directed by such instructions. If the funeral establishment receives instructions from at least one of the parents, the funeral establishment may arrange for the final disposition of the child in accordance with such instructions without contacting the other parent. If the parents of the child do not provide instructions for the final disposition within five days, the funeral establishment shall conduct the most cost-effective method of final disposition of such child and the hospital shall be responsible for the cost of such final disposition. The hospital shall be entitled to collect the cost of such disposition from the parents. If the parents select the manner of final disposition, the parents shall be responsible to the funeral establishment for the costs of such disposition.

3. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

(L. 1997 H.B. 713 § 1)

Uniform Anatomical Gift Act

194.220. Registry to be established — gift may be made by whom. — 1. (1) The department of health and senior services shall establish or contract for the establishment of a first person consent organ and tissue donor registry.

(2) The department of health and senior services and the department of revenue shall advise the individual that he or she is under no obligation to have his or her name included in the first person consent organ and tissue donor registry.
(3) An individual who agrees to have his or her name in the first person consent organ and tissue donor registry has given full legal consent to the donation of any of his or her organs or tissues upon his or her death as recorded in the registry or as subject in subsection 2 of this section.
(4) An individual may withdraw his or her consent to be listed in the first person consent organ and tissue donor registry as indicated in this section. The department of health and senior services and the department of revenue shall provide information to an individual advising them that withdrawal of his or her consent to be

listed in the registry does not constitute a refusal to make an anatomical gift of the individual's body or part, and that his or her agent or any person listed in section 194.245 having priority to make an anatomical gift on behalf of the individual may make a gift of the individual's body or part.

(5) The department of health and senior services and the department of revenue shall provide information advising the individual that if he or she wants to bar other persons from making an anatomical gift of his or her body or part, the individual must execute a refusal under section 194.235.

2. Subject to section 194.240, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in section 194.225 by:

(1) The donor, if the donor is an adult or if the donor is a minor and is:

(a) Emancipated; or

(b) Authorized under state law to apply for a driver's license;

(2) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(3) A parent of the donor, if the donor is an unemancipated minor; or

(4) The donor's guardian.

(L. 1969 S.B. 43 § 2, A.L. 1989 H.B. 145, A.L. 1996 H.B. 811, A.L. 2002 S.B. 1026 § 194.220 merged with § 1, A.L. 2003 S.B. 351 merged with S.B. 355, A.L. 2008 S.B. 1139)

194.295. Embalmers authorized to enucleate eyes, when. — Any embalmer, licensed under the provisions of chapter 333, who has successfully completed a course in eye enucleation conducted or certified by the department of ophthalmology of a college of medicine offering said course, and who holds a valid certificate of competence for completing the course, may enucleate eyes when the eyes have been donated as a gift as provided by the Missouri uniform anatomical gift act. No embalmer is subject to any civil or criminal liability for performing any act necessary to enucleate eyes as provided by this section.

(L. 1973 S.B. 34 § 1)

Cremation

194.350. Disposition of cremated remains — if no directions are given, procedure, notice. — A licensed funeral establishment which cremates, or contracts for the cremation of, a dead human body, whether the cremation occurs before or after August 28, 1989, may dispose of the cremated remains by:

(1) Disposing the remains in accordance with the cremation contract, except if otherwise prohibited by law;

(2) Delivering the remains to or as directed by another licensed funeral establishment which contracted for the cremation;

(3) Delivering the remains to or as directed by the person who contracted for the cremation; or

(4) If not delivered pursuant to subdivision (2) or (3) of this section, by scattering, burying, or interring the unclaimed cremated remains in a scatter garden or pond, columbarium or other place formally dedicated for such purpose, by delivering the remains to any person listed in section 194.119, or releasing the remains to a veterans' service organization per the procedures set out in section 194.360, provided, at least ninety days prior to such action the funeral establishment shall send a written notice by mail, with confirmation of delivery, to the last known address of the person or establishment that contracted for the cremation stating that the remains will be scattered, interred, or delivered under this subdivision unless the notified establishment or person, or other person authorized by the notified establishment or person, claims and removes the remains prior to the end of such ninety-day period.

(L. 1989 H.B. 195 § 1, A.L. 2010 H.B. 2231, A.L. 2013 S.B. 186)

194.360. Veterans, cremated remains — definitions — funeral establishment or coroner, authorized release of identifying information, to whom — release of remains, when — immunity from liability. — 1. As used in this section the following terms shall mean:

(1) **"Funeral establishment"**, as defined in section 333.011, a funeral home, a funeral director, an embalmer, or an employee of any of the individuals or entities;

(2) **"Identifying information"**, data required by the Department of Veterans Affairs to verify a veteran or

their dependent's eligibility for burial in a national or state cemetery: name, service number, Social Security number, date of birth, date of death, place of birth, and copy of death certificate;

(3) **"Veteran"**, a person honorably discharged from the Armed Forces of the United States, including, but not limited to, the Philippine Commonwealth Army, the Regular Scouts "Old Scouts", and the Special Philippine Scouts "New Scouts", or a person who died while on active military service with any branch of the Armed Forces of the United States;

(4) **"Veterans' service organization"**, a veterans organization that is federally chartered by the Congress of the United States, veterans' service organization recognized by the Department of Veterans Affairs or that qualifies as a Section 501(c)(3) or 501(c)(19), nonprofit tax exempt organization under the Internal Revenue Code that is organized for the verification and burial of veterans and dependents.

2. A funeral establishment or coroner in the possession of cremated remains is authorized to release the identifying information to the Department of Veterans Affairs or a veterans' service organization for the purpose of obtaining verification of the veteran's or veterans' dependent's eligibility for a military burial, interment, or scattering. When verification of a veteran or dependent is completed, the funeral establishment or coroner may release the remains to the veterans' service organization who then may arrange for the burial, interment, or scattering of the remains.

3. A funeral establishment or coroner who releases the identifying information shall not be liable in any action regarding the release of the identifying information and neither the funeral establishment, coroner, or veterans' service organization shall be liable in any action stemming from the final disposition, interment, burial, or scattering of remains released to a veterans' service organization pursuant to this chapter so long as the funeral establishment, prior to the burial, interment, or scattering of the remains, follows the notification procedures for unclaimed cremated remains as set out in subdivision (4) of section 194.350.

4. A veterans' service organization accepting remains under this section shall take all reasonable steps to inter the remains in a veterans' cemetery.

(L. 2009 H.B. 111 merged with H.B. 427, A.L. 2013 S.B. 186)

Disposition of Fetal Remains

194.375. Citation of law — definitions. — 1. Sections 194.375 to 194.390 shall be known and may be cited as the "Disposition of Fetal Remains Act".

2. As used in sections 194.375 to 194.390, the following terms mean:

(1) **"Final disposition"**, the burial, cremation, or other disposition of the remains of a human fetus following a spontaneous fetal demise occurring after a gestation period of less than twenty completed weeks;

(2) **"Remains of a human fetus"**, the fetal remains or fetal products of conception of a mother after a miscarriage, regardless of the gestational age or whether the remains have been obtained by spontaneous or accidental means.

(L. 2004 H.B. 1136)

194.378. Final disposition of fetal remains, mother has right to determine. — In every instance of fetal death, the mother has the right to determine the final disposition of the remains of the fetus, regardless of the duration of the pregnancy. The mother may choose any means of final disposition authorized by law or by the director of the department of health and senior services.

(L. 2004 H.B. 1136)

194.381. Means of disposition. — 1. The final disposition of the remains of a human fetus may be by cremation, interment by burial, incineration in an approved medical waste incinerator, or other means authorized by the director of the department of health and senior services. The disposition shall be in accordance with state law or administrative rules providing for the disposition. If the remains are disposed of by incineration, the remains shall be incinerated separately from other medical waste.

2. No religious service or ceremony is required as part of the final disposition of the remains of a human fetus.

(L. 2004 H.B. 1136)

194.384. Written standards required for protection of mother's right to determine final disposition. — Every hospital, outpatient birthing clinic, and any other health care facility licensed to operate in this state shall adopt written standards for the final disposition of the remains of a human fetus as provided in sections 194.375 to 194.390 for protection of a mother's right pursuant to section 194.378 and for notice as required in section 194.387.
(L. 2004 H.B. 1136)

194.387. Miscarriage — mother's right to determine final disposition of remains — counseling made available, when. — 1. Within twenty-four hours after a miscarriage occurs spontaneously or accidentally at a hospital, outpatient birthing clinic, or any other health care facility, the facility shall disclose to the mother of the miscarried fetus, both orally and in writing, the mother's right to determine the final disposition of the remains of the fetus. The facility's disclosure shall include giving the mother a copy of the facility's written standards adopted pursuant to section 194.384.

2. The facility shall make counseling concerning the death of the fetus available to the mother. The facility may provide the counseling or refer the mother to another provider of appropriate counseling services.

(L. 2004 H.B. 1136)

Funeral Processions

194.500. Definitions. — As used in sections 194.500 to 194.512, the following terms mean:

(1) **"Funeral director"**, a person licensed as a funeral director pursuant to the provisions of chapter 333;
(2) **"Funeral lead vehicle"** or **"lead vehicle"**, any motor vehicle equipped with at least one lighted circulating lamp exhibiting an amber or purple light or lens or alternating flashing headlamps visible under normal atmospheric conditions for a distance of five hundred feet from the front of the vehicle. A hearse or coach properly equipped may be a lead vehicle;
(3) **"Organized funeral procession"**, two or more vehicles accompanying the remains of a deceased person from a funeral establishment, church, synagogue or other place where a funeral service has taken place to a cemetery, crematory or other place of final disposition, or a funeral establishment, church, synagogue or other place where additional funeral services will be performed, if directed by a licensed funeral director from a licensed establishment.

(L. 1999 S.B. 270)

194.503. Right-of-way — use of lead vehicles — emergency vehicles with right-of-way, when. — 1. Except as otherwise provided for in this subsection, pedestrians and operators of all other vehicles shall yield the right-of-way to any vehicle which is a part of an organized funeral procession.

2. Notwithstanding any traffic control device or right-of-way provision prescribed by state or local law, when the funeral lead vehicle in an organized funeral procession lawfully enters an intersection, all vehicles in the procession shall follow the lead vehicle through the intersection. The operator of each vehicle in the procession shall exercise the highest degree of care toward any other vehicle or pedestrian on the roadway.

3. An organized funeral procession shall have the right-of-way at all intersections regardless of any traffic control device at such intersections, except that operators of vehicles in an organized funeral procession shall yield the right-of-way to any approaching emergency vehicle pursuant to the provisions of section 304.022 or when directed to do so by a law enforcement officer.

(L. 1999 S.B. 270)

194.506. Following distance — flashing emergency lights used, when — toll-free passage, when. — 1. All vehicles in an organized funeral procession shall follow the preceding vehicle in the procession as closely as is practical and safe under the conditions.

2. No person shall operate any vehicle as part of an organized funeral procession without the flashing emergency lights of such vehicle being lighted.

3. Toll-free passage shall be given on all toll bridges, tunnels and other toll highways to all vehicles in an organized funeral procession.

(L. 1999 S.B. 270)

194.509. Regulations for nonparticipating vehicle operators — violations, penalty. — 1. Any person who is not an operator of a vehicle in an organized funeral procession shall not:

(1) Drive between the vehicles comprising an organized funeral procession while such vehicles are in motion and have the flashing emergency lights lighted pursuant to subsection 2 of section 194.506, except when required to do so by a law enforcement officer or when such person is operating an emergency vehicle giving an audible or visual signal;

(2) Join a funeral procession for the purpose of securing the right-of-way granted in section 194.506; or

(3) Attempt to pass any vehicle in an organized funeral procession, except where a passing lane has been specifically provided.

2. When an organized funeral procession is proceeding through a red signal light as permitted in section 194.503, a vehicle not in the organized funeral procession shall not enter the intersection unless such vehicle may do so without crossing the path of the funeral procession.

3. Any person violating the provisions of this section is guilty of an infraction which shall be punishable by a fine not to exceed one hundred dollars.

(L. 1999 S.B. 270)

194.512. Use of amber lights for motorcycles — ordinances permitted. — 1. No ordinance, regulation or any other provision of law shall prohibit the use of a motorcycle utilizing flashing amber lights to escort an organized funeral procession on the highway.

2. Any city, town, village or county may adopt an ordinance substantially similar to the provisions of sections 194.500 to 194.512.

(L. 1999 S.B. 270)

Board Rules & Regulations

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Chapter 1
Organization and Description of Board

Title 20-DEPARTMENT OF COMMERCE AND INSURANCE
Division 2120—State Board of Embalmers and Funeral Directors
Chapter 1—Organization and Description of Board

20 CSR 2120-1.010 General Organization

PURPOSE: This rule describes the board's operation and the methods and procedures where the public may obtain information and make submissions or requests.

(1) The board is a unit of the Division of Professional Registration.

(2) The board is authorized to adopt rules necessary for the transaction of its business and for the standards of service and practice to be followed in the professions of embalmer, funeral director, preneed seller, preneed provider, and preneed agent.

(3) The board has at least two (2) regularly scheduled business meetings each year and such other meetings as determined by the board. The time and location for all board meetings may be obtained by contacting the board office at PO Box 423, Jefferson City, MO 65102-0423.

(4) The meetings of the board are conducted in accordance with Robert's Rules of Order, as last revised so far as it is compatible with the laws of Missouri governing this board or the board's own resolutions as to its conduct.

(5) All board meetings will be open to the public except as provided by law.

(6) Members of the public may obtain information from the board, or make submissions to the board, by writing the board at PO Box 423, Jefferson City, MO 65102-0423 or by visiting http://pr.mo.gov/embalmers.asp.

(7) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: sections 333.111 and 333.151.1, RSMo 2016, and sections 436.400–436.525, RSMo 2016 and Supp. 2019. This rule originally filed as 4 CSR 120-1.010. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and re-adopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed June 9, 1982, effective Sept. 12, 1982. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-1.010, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed June 12, 2019, effective Dec. 30, 2019.*
**Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.151, RSMo 1965, amended 1981, 1999, 2009, 2011; and 436.400–436.525, please refer to the Revised Statutes of Missouri.*

20 CSR 2120-1.020 Board Member Compensation

PURPOSE: This rule fixes the compensation for the members of the State Board of Embalmers and Funeral Directors in compliance with the mandates of section 333.221.1, RSMo.

(1) Each member of the State Board of Embalmers and Funeral Directors shall receive the sum of fifty dollars ($50) as compensation for each day that member devotes to the affairs of the board.

(2) In addition to the compensation fixed in this rule, each member is entitled to reimbursement of his/her expenses necessarily incurred in the discharge of his/her official duties.

(3) No request for compensation provided in this rule shall be processed for payment unless sufficient funds are available for that purpose within the appropriations for this board.

(4) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: sections 333.111 and 333.221, RSMo 2000. This rule originally filed as 4 CSR 120-1.020. Emergency rule filed Sept. 17, 1981, effective Sept. 28, 1981, expired Dec. 28, 1981. Original rule filed Sept.*

17, 1981, effective Feb. 11, 1982. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-1.020, effective Aug. 28, 2006
**Original authority: 333.111, RSMo 1965, amended 1981, 1993 and 333.221, RSMo 1965, amended 1980, 1981.*

20 CSR 2120-1.030 Election and Removal of Officers

PURPOSE: This rule sets out the term of office and outlines the duties of the officers of the board and establishes a procedure for removal of a board member from serving as an officer of the board.

(1) Prior to April 1 of each year at a regularly scheduled meeting, the board shall elect a chairman, vice-chairman and secretary to serve as its officers.

(2) Any board member duly nominated and receiving a majority vote of the members serving on the board shall be considered elected as an officer.

(3) The terms of the officers elected shall commence on April 1 and expire on March 31 of the succeeding year.

(4) The officers elected by the board shall have the following duties:

(A) Chairman—shall chair the board meetings; advise the board's staff on the handling of complaints; call special board meetings; appoint committees of the board; may order, as s/he deems necessary, investigation of any complaint; may act on matters requiring immediate and necessary attention; make board member assignments; and any other duty which from time-to-time may be delegated by consent of the board;
(B) Vice-chairman—shall serve as chairman in the absence of the chairman; review all licensees' compliance with the terms of any disciplinary order or agreement; and any other duty which may from time-to-time be delegated by consent of the board; and
(C) Secretary—shall perform any duties that may from time-to-time be delegated by consent of the board.

(5) Any officer may be removed from office at any time upon a vote of a majority of the members of the board.

(6) The board, in its discretion, may have a special election to fill any office which for any reason becomes vacant.

(7) Each board member, whether or not an officer of the board, may participate in any vote relating to the election or removal of officers.

AUTHORITY: sections 333.111.1, RSMo Supp. 1999 and 333.181, RSMo 1994. This rule originally filed as 4 CSR 120-1.030. Original rule filed Dec. 2, 1993, effective July 30, 1994. Amended: Filed March 10, 2000, effective Sept. 30, 2000. Moved to 20 CSR 2120-1.030, effective Aug. 28, 2006.*
**Original authority: 333.111.1., RSMo 1965, amended 1981, 1993, 1995 and 333.181, RSMo 1965.*

20 CSR 2120-1.040 Definitions

PURPOSE: This rule defines terms used throughout the board's regulations consistent with the practice act.

(1) Apprentice embalmer—an individual who is being trained as an embalmer under the immediate direction and personal supervision of a Missouri licensed embalmer for the "practice of embalming," the work of preserving, disinfecting, and preparing by arterial embalming, or otherwise, of dead human bodies or the holding of oneself out as being engaged in such work and has met the requirements for registration pursuant to sections 333.041 and 333.042, RSMo, and 20 CSR 2120-2.010.

(2) Apprentice funeral director—an individual who is being trained as a funeral director in a Missouri licensed funeral establishment under the supervision of a Missouri licensed funeral director in the "practice of funeral directing," the business of preparing, otherwise than by embalming, for the burial, disposal, or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision, or management of the operations of a Missouri licensed funeral establishment and has met the requirements for registration pursuant to 20 CSR 2120-2.060.

(3) Authorized external investment advisor—any federal or Missouri registered investment advisor qualified to advise a trustee of a preneed trust and retained by the preneed trustee.

(4) Board—Missouri State Board of Embalmers and Funeral Directors created by the provisions of Chapter 333, RSMo.

(5) Corporation—a business entity incorporated under the laws of Missouri or any other state with authority to

do business in the state of Missouri.

(6) Cremated remains—the bone fragments which remain after the cremation process is completed.

(7) Cremation—a final disposition of dead human remains; the mechanical process which reduces remains to bone fragments through heat, evaporation, and/or an alkaline hydrolysis chemical process.

(8) Cremation box—a container into which cremated remains are placed.

(9) Cremation chamber—the total functioning mechanical unit for the actual cremation process.

(10) Cremation container—the container in which the human remains are delivered to the crematory area for cremation.

(11) Cremation log—a written record or log kept in the cremation area available at all times in full view for a board inspector.

(12) Crematory area—the portion of a building which houses the cremation chamber and includes the room where a cremation chamber is located.

(13) Disinterment—removal of dead human remains from the ground, grave, tomb, mausoleum, or other place where dead human remains are interred.

(14) Embalmer—an individual holding an embalmer's license issued by the board.

(15) Embalmer examination—an examination consisting of the following:

(A) National Board Funeral Service Arts examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or other equivalent nationally accredited agency approved by the board which develops examinations for licensure of individuals in the death care profession;
(B) National Board Funeral Service Science examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board; and
(C) Missouri Law examination.

(16) Entombment—the placing of a dead body in a tomb.

(17) Executive director—executive secretary of the board.

(18) Function—the purpose for which a funeral establishment may be used as set forth in these rules.

(19) Funeral ceremony—a religious service or other rite or memorial ceremony for a decedent.

(20) Funeral director—an individual holding a funeral director license issued by the board.

(21) Funeral director examination—an examination consisting of the following:

(A) National Board Funeral Service Arts examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or other equivalent nationally accredited agency approved by the board which develops examinations for licensure of individuals in the death care profession; and
(B) Missouri Law examination.

(22) Funeral director-in-charge—an individual licensed as a funeral director by the board responsible for the general management and supervision of a Missouri licensed funeral establishment in the state of Missouri. Each Missouri licensed funeral establishment shall have a Missouri licensed funeral director designated as the funeral director-in-charge. A funeral director limited may serve as funeral director-in-charge of a funeral establishment which is licensed for only cremation including transportation of dead human bodies to and from the funeral establishment.

(23) Funeral Director Limited—allows a person to work only in a funeral establishment which is licensed for only cremation including transportation of dead human bodies to and from the funeral establishment.

(24) Funeral establishment—a building, place, or premises licensed by the board devoted to or used in the care and preparation for burial, cremation, or transportation of the human dead and includes every building, place, or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose.

(25) Funeral service—any service performed in connection with the care of a dead human body from the time of death until final disposition including, but not limited to:

(A) Removal;
(B) Entering into contractual agreements for the provision of funeral services;

(C) Arranging, planning, conducting, and/or supervising visitations and funeral ceremonies;
(D) Interment;
(E) Cremation;
(F) Disinterment;
(G) Burial; and
(H) Entombment.

(26) Independent Financial Advisor—an investment advisor retained pursuant to section 436.440.6, RSMo.

(27) Interment—burial of dead human remains in the ground, a tomb, a mausoleum, or other place where dead human remains are interred.

(28) Person—any individual, partnership, corporation, cooperative, association, or other entity.

(29) Preparation room—refers to the room in a Missouri licensed funeral establishment where dead human bodies are embalmed, bathed, and/or prepared for final disposition.

(30) Reciprocity examination—consists of the Missouri Law Examination.

(31) Register log—a written record or log maintained in a Missouri licensed funeral establishment available at all times in full view for a board inspector.

(32) Urn—any receptacle into which the cremated remains are placed for other than transportation or short-term storage.

AUTHORITY: sections 333.011 and 333.111, RSMo 2016. This rule originally filed as 4 CSR 120-1.040. Original rule filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-1.040, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed July 22, 2009, effective Jan. 30, 2010. Amended: Filed March 9, 2020, effective Sept. 30, 2020. Amended: Filed Aug. 30, 2022, effective Feb. 28, 2023.*
**Original authority: 333.011, RSMo 1965, amended 2007, 2008, 2009, and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

Chapter 2
General Rules

Title 20-DEPARTMENT OF COMMERCE AND INSURANCE
Division 2120—State Board of Embalmers and Funeral Directors
Chapter 2—General Rules

20 CSR 2120-2.005 General Rules—Applicable to all Licensees and Registrants

PURPOSE: This rule provides information and requirements applicable to all licensees and registrants.

(1) All funeral establishment licenses shall be displayed, at all times, in a conspicuous location accessible to the public. All licenses and registrations for individuals issued pursuant to Chapter 333, RSMo, shall either be displayed at all times in a conspicuous location accessible to the public at funeral establishment locations unless the entity has posted a sign in a conspicuous location accessible to the public that reads, "All licenses for individuals issued pursuant to Chapter 333, RSMo, are available upon request and for inspection at this location."

(2) Examinations. After verification and approval by the board, application, scheduling, administration, and payment for any examination required for licensure from the board is made to the board's testing service.

(A) All Missouri examinations may be provided in a computer-based testing format. Examinations shall be held at the locations designated by the testing service. A link to a complete listing of the examination sites is available on the board's website.

(B) The Missouri Law examination covers knowledge of Chapter 333, RSMo, and the rules governing the practice of embalming, funeral directing, and funeral home licensing, along with government benefits, statutes and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies. The Missouri Law examination also contains questions regarding Chapter 436, RSMo, relating to preneed statutes and Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes, as well as questions regarding Federal Trade Commission rules and regulations requirements as they apply to Missouri licensees.

(3) Each Missouri licensed embalmer or funeral director shall keep the board notified of each Missouri licensed funeral establishment at which he/she is practicing. The embalmer or funeral director shall notify the board within thirty (30) days of any termination and prior to beginning as an embalmer or funeral director with a Missouri licensed funeral establishment.

(4) Each Missouri registered preneed agent shall keep the board notified of each preneed seller for whom the preneed agent is authorized to sell, negotiate, or solicit the sale of preneed contracts for or on behalf of.

(5) Each Missouri embalmer, funeral director, preneed seller, preneed provider, and preneed agent shall keep the board notified of their current address, telephone number, facsimile number, and email address, as applicable, at all times; and shall notify the board prior to any address change by submitting written notice with the new information.

(6) A Missouri licensed funeral director, embalmer, and preneed agent has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or *nolo contendere*, in a criminal prosecution under the laws of any state or territory of the United States or the District of Columbia, whether or not sentence was imposed for any and all criminal matters for which discipline is authorized in section 333.330.2(2), RSMo. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

(7) All licensees may be represented before the board by an attorney. If the licensee desires to be represented by an attorney, the attorney shall be licensed to practice law in Missouri or meet the requirements of the Missouri Supreme Court with respect to nonresident attorneys.

(8) All documents filed with the board shall become a part of its permanent files.

AUTHORITY: sections 333.111 and 436.520, RSMo 2016. Original rule filed Nov. 6, 2019, effective May 30, 2020.*

**Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995 and 436.520, RSMo 2009.*

20 CSR 2120-2.008 When Forms Considered Filed

PURPOSE: Various provisions of Chapter 333, RSMo, and sections 436.400 to 436.525, RSMo, require that certain reports, applications, and renewals be filed with the board. This rule clarifies when a document shall be

deemed to have been filed with the board.

(1) When any provision of Chapter 333, RSMo, and sections 436.400 to 436.525, RSMo, provides for an application, a renewal, annual report, or other documentation to be filed with the board before that license, permit, registration, or other authorization will be issued by the board, the renewal, application, annual report, or other documentation must be deemed filed in accordance with this rule.

(2) No annual report, application for licensure, registration, permit, or other request for authorization or renewal for any license, registration, permit, or other documentation shall be deemed to be filed with the board until such time as such application, renewal, request, or annual report has been accepted by the board as complete.

(3) To be deemed complete, at a minimum, an annual report, application, renewal, or other documentation shall be signed and all applicable sections completed with any and all attachments as requested by the board and any applicable fees have been tendered and paid to the board.

AUTHORITY: sections 333.061, 333.081, 333.315, 333.320, 333.325, and 436.460, RSMo 2016, and sections 333.041, 333.042, and 333.051, RSMo Supp. 2019. Original rule filed Nov. 6, 2019, effective May 30, 2020. *Original authority: 333.041, RSMo 1965, amended 1969, 1977, 1981, 1983, 1993, 1998, 2001, 2018; 333.042, RSMo 1993, amended 1998, 2001, 2011, 2018; 333.051, RSMo 1965, amended 1981, 1998, 2011, 2018; 333.061, RSMo 1965, amended 1981, 2001, 2011; 333.081, RSMo 1965, amended 1981, 2001; 333.315, RSMo 2009; 333.320, RSMo 2009; 333.325, RSMo 2009; and 436.460, RSMo 2009.*

20 CSR 2120-2.010 Embalmer's Registration and Apprenticeship

PURPOSE: This rule establishes the procedures to be used to secure an embalmer's license.

(1) Every person desiring to enter the profession of embalming dead human bodies within Missouri, and who is enrolled in an accredited institution of mortuary science, shall complete a practicum as required by the accredited institution of mortuary science education.

(2) For every person desiring to enter the profession of embalming dead human bodies within Missouri the board may conduct a criminal history background check through the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol.

(3) After registration with the board as a practicum student in an accredited institution of mortuary science education, the student may assist in a Missouri licensed funeral establishment preparation room only under the direct supervision of a Missouri licensed embalmer and may assist in the direction of funerals only under the direct supervision of a Missouri licensed funeral director. Each person desiring to be a practicum student shall register with the board as a practicum student on the form provided by the board in accordance with the requirements of the accredited institution of mortuary science prior to beginning the practicum. Applications shall be accompanied by the applicable fee.

(4) During the period of the practicum, the certificate of registration issued to the practicum student shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the practicum student is working.

(5) The practicum student registration authorizes the registrant to engage in the practice of embalming only at the Missouri licensed funeral establishment(s) designated on the certificate of registration and only under the direct supervision of a Missouri licensed embalmer. The practicum student may assist in the practice of funeral directing only under the direct supervision of a Missouri licensed funeral director and only at the Missouri licensed funeral establishment(s) designated on the certificate of registration. If during the course of the practicum, the practicum student wishes to work at a Missouri licensed funeral establishment other than as designated on the certificate of registration, the practicum student shall notify the board in writing of the name, location, and Missouri licensed funeral establishment license number of the new Missouri licensed funeral establishment within ten (10) days of the change.

(6) Upon successful completion of the practicum, the practicum student registration shall become null and void. A practicum shall be deemed successfully completed when the practicum student has achieved a passing grade on the practicum from the institution of mortuary science at which the practicum student is enrolled.

(7) After graduating from an accredited institution of mortuary science education, the applicant then shall file, with the board, an official transcript of his/her embalming school grades showing s/he is a graduate of that school. In addition, the applicant shall ensure that his/her official copy of the national board examination results

are provided to the board in writing by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.

(8) Effective July 30, 2004, the Missouri State Board embalmers' examination shall consist of the National Board Funeral Service Arts section, the National Board Funeral Service Science section, and Missouri Law section. Application, payment, scheduling, and administration for the national board examinations will be made directly through the International Conference of Funeral Service Examining Boards, Inc., or other designee of the board. An applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section for another Missouri license within the jurisdiction of the board and the license is in active status. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination results will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.

(9) Effective January 1, 2023, the Missouri State Board embalmers' examination shall consist of the National Board Funeral Service Arts section, the National Board Funeral Service Science section, and Missouri Law section. Application, payment, scheduling, and administration for the national board examinations will be made directly through the International Conference of Funeral Service Examining Boards, Inc., or other equivalent nationally accredited agency approved by the board. An applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section for another Missouri license within the jurisdiction of the board and the license is in active status.

(10) The embalming examination shall cover knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative arts, together with statutes, rules, and regulations governing the care, custody, shelter, and disposition of dead human bodies and the transportation thereof.

(11) An applicant shall submit proof of having satisfied the requirements of the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the examination by having his/her official copy of the scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board transmitted to the board from the Conference. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.

(12) Effective January 1, 2023, the Missouri Funeral Service Arts section of the examination will no longer be administered in lieu of the National Funeral Service Arts section; however, an applicant may submit proof of having satisfied the requirements of the Missouri Funeral Service Arts section of the examination in lieu of the National Board Funeral Service Arts section of the examination by having his/her official copy of the scores from the International Conference of Funeral Service Examining Boards, Inc., or other equivalent nationally accredited agency approved by the board, transmitted to the board from the Conference. The board will accept the successful score of the Missouri Funeral Service Arts examination taken prior to January 1, 2023, as long as the application including the exam score is submitted per the requirements as outlined in board rules.

(13) Those applicants achieving seventy-five (75) on each of the three (3) sections of the embalming examination will be deemed to have passed the board's embalming examination. Any applicant who scores less than seventy-five (75) on any section of the embalming examination may retake the failed section, upon application and payment of the administration and reexamination fees. On any reexamination of a single failed section, the applicant shall score at least seventy-five (75) to pass.

(14) After the applicant has made a passing grade on the national and/or state examinations as outlined in board rule, the applicant then may apply for registration as an apprentice embalmer. This application shall contain the name(s) of the Missouri licensed embalmer(s) under whom the applicant will serve. Each supervisor must be licensed and registered with and approved by the board. Any change in supervisor shall also be registered and approved within ten (10) business days after the change has been made. Applications shall be submitted on the forms provided by the board and shall be accompanied by the applicable fee. Application forms are available from the board office or the board's website at http://pr.mo.gov/embalmers.asp.

(15) Each apprentice embalmer shall provide to the board, on the application provided by the board, the name(s), location(s), and license number(s) of the licensed funeral establishment(s) where the apprentice is

serving as an apprentice. If the apprentice embalmer begins work at any other licensed funeral establishment during the period of apprenticeship, the apprentice embalmer shall notify the board, on the form provided by the board, within ten (10) business days after the change has been made.

(16) The period of apprenticeship under this rule shall be at least twelve (12) consecutive months. The apprentice embalmer shall devote at least thirty (30) hours per week to his/her duties as an apprentice embalmer. During the period of the apprenticeship, the certificate of registration issued to the apprentice shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the apprentice is working.

(17) Prior to completion of the period of apprenticeship, the apprentice embalmer shall achieve a grade of seventy-five (75) or greater on the Missouri Law exam. This exam may be taken any time after graduating from an accredited institution of mortuary science, but shall be successfully completed prior to appearing before the board for oral examination. The Missouri Law exam covers knowledge of Chapter 333, RSMo, and the rules governing the practice of embalming, funeral directing, and funeral home licensing, along with government benefits, statutes, and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies. The Missouri Law section also contains questions regarding Chapter 436, RSMo, relating to preneed statutes and Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes, as well as questions regarding Federal Trade Commission rules and regulations and Occupational Safety and Health Administration (OSHA) requirements as they apply to Missouri licensees. Notification of intent to take this section of the examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination.

(18) An affidavit provided by the board, signed by both the apprentice and the supervisor(s) verifying that the applicant has successfully completed the embalming of twenty-five (25) dead human bodies, shall be submitted to the board at the time of completion of the apprenticeship period and prior to the oral examination.

(19) After successful completion of the embalmer's examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant shall appear for the oral examination. To appear for the oral examination, the embalmer applicant shall—

(A) Submit an application on a form supplied by the board and pay the applicable fees to the board; and
(B) Successfully pass the oral examination administered by the board for licensure.

(20) The oral examination shall be conducted by one (1) or more board members who hold a Missouri state embalmer license, or a member of the board staff that is a licensed embalmer, and shall be conducted in person at a place and time established by the board. The oral examination shall consist of no fewer than five (5) substantive questions related to the practice of embalming and/or the statutes, rules, and regulations governing embalming practice in the state of Missouri. Whether the applicant satisfactorily completes the oral examination shall be in the sole discretion of the board.

(21) After satisfactory completion of these requirements, an embalmer's license shall be issued to an apprentice embalmer upon payment of the applicable fee and subject to the provisions of section 333.121, RSMo.

(22) An applicant shall meet the requirements of the board for licensure within five (5) years of his/her graduation from an accredited institution of mortuary science. If the applicant fails to meet the requirements of the board within the required time, a new application and applicable fees shall be filed with the board and the applicant shall be required to appear for the oral examination within five (5) years of the new date of application. No previous practicum, apprenticeship, application, or Missouri Law section will be considered for a new application. However, the successful examination results of the National Board Funeral Service Arts section and the National Board Funeral Service Science section, or designee of the board will be accepted.

(23) A Missouri licensed embalmer may engage in the practice of embalming in the state of Missouri only in Missouri licensed funeral establishments. Each embalmer shall inform the board in writing of each funeral establishment name(s), location(s), and license number(s) where the embalmer is performing embalming.

(24) A Missouri licensed embalmer has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or *nolo contendere*, in a criminal prosecution under the laws of any state or of the United States, whether or not sentence was imposed. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

(25) Any embalmer licensed by the board in the state of Missouri who wishes to become a licensed funeral director shall be required to comply with all requirements necessary for licensure as a funeral director, except

the Missouri licensed embalmer shall be exempt from the requirement of a funeral director apprenticeship.

(26) Should an individual desire to obtain a Missouri embalmer's license after his/her license has become void under section 333.081.3, RSMo, the individual shall be required to make application, obtain a passing grade on the embalmer examination, and shall be required to complete a six (6) consecutive month period of apprenticeship during which time s/he shall be required to embalm at least twelve (12) dead human bodies under the supervision of a Missouri licensed embalmer. The applicant shall be required to pay the current applicable apprenticeship and application fees to obtain a new embalmer's license under this section. No previous apprenticeship, application, or examination will be considered for a new application under this section. However, the successful examination results of the National Board Funeral Service Arts section and the National Board Funeral Science section will be accepted.

(27) After successful completion of the embalmer's examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant shall appear for the oral examination at a location specified by the board. To arrange for the oral examination, the embalmer applicant shall submit an application of a form supplied by the board and pay the applicable fees to the board. Applicants shall successfully pass the oral examination administered by the board for licensure.

(28) All certificates, registrations, and licenses, or duplicate copies thereof issued by the State Board of Embalmers and Funeral Directors shall be displayed at all times in a conspicuous location accessible to the public in each office or place of business where they work, for inspection by any duly authorized agent of the board.

(29) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: section 333.041, RSMo Supp. 2022, and sections 333.081, 333.091, 333.111, and 333.330, RSMo 2016. This rule originally filed as 4 CSR 120-2.010. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 26, 1976. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Amended: Filed April 6, 1978, effective July 13, 1978. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Rescinded and readopted: Filed Dec. 3, 1982, effective March 11, 1983. Amended: Filed July 17, 1989, effective Oct. 12, 1989. Amended: Filed March 26, 1991, effective Sept. 30, 1991. Amended: Filed Aug. 13, 1991, effective Jan. 13, 1992. Amended: Filed Oct. 16, 1991, effective Feb. 6, 1992. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed Aug. 30, 1995, effective Feb. 25, 1996. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed March 24, 1999, effective Oct. 30, 1999. Amended: Filed March 10, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.010, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed July 22, 2009, effective Jan. 30, 2010. ** Amended: Filed Aug. 30, 2022, effective Feb. 28, 2023.*
**Original authority: 333.041, RSMo 1965, amended 1969, 1977, 1981, 1983, 1993, 1998, 2001, 2011, 2018, 2020; 333.081, RSMo 1965, amended 1981, 2001; 333.091, RSMo 1965, amended 1981, 2009, 2011; 333.111, RSMo 1965, amended 1981, 1993, 1995; and 333.330, RSMo 2009.*
***Pursuant to Executive Order 21-07, 20 CSR 2120-2.010 was suspended from April 10, 2020 through April 23, 2021.*

20 CSR 2120-2.020 Biennial License Renewal

PURPOSE: This rule outlines the requirements and procedures for the renewal of embalmers, funeral directors, funeral directors limited, and funeral establishments.

(1) The biennial license renewal date for licensed embalmers, licensed funeral directors, and licensed funeral director limited is June 1. The biennial license renewal date for licensed funeral establishments is January 1.

(2) Embalmers, funeral directors, funeral director limited, and funeral establishment licenses which are not renewed will be notified that their licenses have expired. The holder of an expired license may reinstate the license within two (2) years of the renewal date after the proper forms have been completed and applicable fees have been paid. Any embalmer funeral director, and funeral establishment license not renewed within two (2) years shall be void.

(3) The licensee's failure to receive the renewal notice shall not relieve the licensee of the duty to pay the re-

newal fee and renew his/her license.

AUTHORITY: sections 333.081 and 333.111.1, RSMo 2016. This rule originally filed as 4 CSR 120-2.020. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 24, 1976. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed June 9, 1982, effective Sept. 12, 1982. Amended: Filed Jan. 13, 1986, effective April 25, 1986. Amended: Filed April 2, 1992, effective Sept. 6, 1992. Amended: Filed March 24, 1999, effective Oct. 30, 1999. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.020, effective Aug. 28, 2006. Amended: Filed July 6, 2020, effective Jan. 30, 2021.*
**Original authority: 333.081, RSMo 1965, amended 1981, 2001 and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

20 CSR 2120-2.021 Inactive License

PURPOSE: This rule outlines the process of requesting inactive status to maintain a license for an embalmer, funeral director, funeral director limited, and preneed agent.

(1) Any embalmer, funeral director, funeral director limited, or preneed agent that holds a current unexpired license/registration may place that license/registration on inactive status by filing a written and signed request for inactive status with the board. This request may be accomplished by signing the request for inactive status which appears on the application for renewal and returning that application to the board prior to the date the license expires.

(2) The licensee/registrant shall not practice in the state of Missouri while the license is inactive.

(3) Each inactive licensee/registrant shall provide the board, at the time of application for renewal, a completed renewal form issued by the board that shall contain updated information since the preceding application/renewal period and the applicable fee. Failure to receive renewal notice shall not relieve the licensee/registrant of the obligation to renew and pay the inactive renewal fee prior to the expiration date.

(4) If an inactive licensee/registrant wishes to return a license/registration to active status the licensee/registrant shall complete the renewal form and pay the renewal fee as stated in the rules promulgated by the board.

AUTHORITY: sections 324.039 and 333.111, RSMo 2016. Original rule filed July 6, 2020, effective Jan. 30, 2021.*
**Original authority: 324.039, RSMo 2008 and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

20 CSR 2120-2.022 Retired License

PURPOSE: This rule clarifies the requirements to retire from the practice of funeral directing and/or embalming.

(1) Any person licensed to practice as a funeral director and/or embalmer in Missouri who is over sixty-five (65) years of age and who retires from such practice, shall file with the board an affidavit, on a form to be furnished by the board, which states the date on which s/he retired from such practice, that s/he will not practice such profession and such other facts as tend to verify the retirement as the board may deem necessary; but if s/he thereafter wishes to reengage in the practice, s/he shall renew his/her registration with the board as provided in section 333.081.1, RSMo.

(2) For purposes of this section, a retired Missouri licensed funeral director and/or Missouri licensed embalmer is one who is neither engaged in the active practice of funeral directing/embalming nor holds him/herself out as an actively practicing funeral director/embalmer and has executed and filed with the board a retirement affidavit. A retired Missouri licensed funeral director/embalmer may keep his/her wall-hanging certificate after execution of a retirement affidavit but shall surrender, upon retirement, all other indicia of licensure.

(3) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: sections 333.081, RSMo Supp. 2003 and 333.111, RSMo 2000. This rule originally filed as 4 CSR 120-2.022. Original rule filed July 15, 1996, effective Jan. 30, 1997. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.022, effective Aug. 28, 2006.*
**Original authority: 333.081, RSMo 1965, amended 1981, 2001 and 333.111.1, RSMo 1965, amended 1981,*

1993, 1995.

20 CSR 2120-2.031 Death Certificate Filings

PURPOSE: This rule outlines the requirements of Missouri licensed embalmers and funeral directors filing death certificates.

(1) Each licensed embalmer who embalms a dead human body shall state on the death certificate that he/she embalmed the dead human body described on the death certificate. Each statement shall be attested to its accuracy as determined by the Missouri Department of Health and Senior Services pursuant to section 193.145, RSMo. If the body was not embalmed, the fact that the body was not embalmed shall be stated on the death certificate prior to the filing of the death certificate by the licensed funeral director.

(2) Each authentication of a licensed embalmer and licensed funeral director on a death certificate must correspond with the licensee's authentication as approved and licensed by the board.

AUTHORITY: sections 193.145, 194.119, and 333.111, RSMo 2016. Original rule filed March 9, 2020, effective Sept. 30, 2020.*
**Original authority: 193.145, RSMo 1984, amended 1989, 1997, 2005, 2010, 2013, 2015; 194.119, RSMo 2003, amended 2008, 2010, 2015; and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

20 CSR 2120-2.040 Licensure by Reciprocity

PURPOSE: This rule outlines procedures for obtaining an embalmer or funeral director license by reciprocity.

(1) Applications for a Missouri embalmer's or funeral director's license by reciprocity shall be made on the forms provided by the board and shall be accompanied by the applicable fee. Application forms are available from the board office or the board's website at http://pr.mo.gov/embalmers.asp.

(2) Any person holding a valid unrevoked and unexpired license to practice embalming or funeral directing in another state or territory is eligible to obtain licensure by reciprocity by meeting the following requirements of the board:

(A) Evidence satisfactory to the board that the reciprocity applicant holds a valid, unrevoked, and unexpired license as an embalmer or funeral director in another state having substantially similar requirements to the requirements for licensure as either an embalmer or funeral director in this state including a copy of his/her original license issued by the other state;
(B) Proof of his/her educational and professional qualifications, which shall be substantially equivalent to the requirements existing in Missouri at the time s/he was originally licensed;
(C) A certificate of state endorsement from the examining board of the state or territory in which the applicant holds his/her license showing the grade rating upon which his/her license was granted, a statement whether the reciprocity applicant has ever been subject to discipline or if there are any complaints pending against the reciprocity applicant and a recommendation for licensure in Missouri;
(D) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National Board Funeral Service Arts Examination and the National Board Funeral Service Science Examination provided by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for an embalmer license or an embalmer and funeral director license; or
(E) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National Board Funeral Service Arts Examination provided by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for only a funeral director license; and
(F) The reciprocity applicant will be required to successfully complete the reciprocity examination with a score of seventy-five percent (75%) or better within twenty-four (24) months after the board's receipt of the reciprocity application. If an applicant by reciprocity has received either an embalmer or funeral director license from the board for which the reciprocity examination is required, that applicant will be exempt from taking the reciprocity examination for the second license if the original Missouri license remains in active status;
(G) A completed application for licensure for reciprocity provided by the board; and
(H) Payment of applicable fees including the fee charged by the Missouri State Highway Patrol for a criminal history background check, as required by the board.

(3) If the reciprocity applicant holds a license as an embalmer or funeral director in another state or territory with requirements less than those of this state, they may seek licensure in this state by meeting the following

requirements of the board:

(A) An official certification from another state or territory which verifies that the licensee holds a valid, unrevoked, and unexpired funeral director or embalmer license in the other state or territory;
(B) A copy of his/her original funeral director or embalmer license from the other state or territory in which the applicant is licensed;
(C) Proof of his/her educational and professional qualifications;
(D) The reciprocity applicant will be required to successfully complete the reciprocity examination with a score of seventy-five percent (75%) or better within twenty-four (24) months after the board's receipt of the reciprocity application. If an applicant by reciprocity has received either an embalmer or funeral director license from the board for which the reciprocity examination is required, that applicant will be exempt from taking the reciprocity examination for the second license if the original Missouri license remains in active status;
(E) A completed application for licensure for reciprocity provided by the board; and
(F) Payment of applicable fees including the fee charged by the Missouri State Highway Patrol for a criminal history background check, as required by the board.

(4) Licensure by reciprocity may be given only for like license(s). An embalmer licensed in another state may obtain an embalmer license by reciprocity, but not a funeral director license unless that person is licensed as a funeral director in another state. A funeral director licensed in another state may obtain a funeral director license by reciprocity, but not an embalmer license unless that person is licensed as an embalmer in another state.

(5) Applications for reciprocity licensure shall be completed and received by the board at least thirty (30) days prior to the date the candidate plans to sit for the examination and shall be accompanied by the applicable fee. Applications are deemed complete upon subcommission of any and all requisite forms required by the board, payment of requisite fees, and submission of all materials required by this rule or supplemental materials requested by the board. Application forms can be obtained from the board office or the board's website at http://pr.mo.gov/embalmers.asp.

(6) The board shall determine the sufficiency of the materials provided in the application for reciprocity and shall have the authority to make the final determination as to the standards and qualifications of the various states from which the applicants may be accepted by reciprocity and may reject any applicant on any lawfully permitted grounds.

(7) All certificates, registrations, and licenses, or duplicate copies thereof, issued by the State Board of Embalmers and Funeral Directors shall be displayed at all times in a conspicuous location accessible to the public in the office(s) or place(s) of business, for inspection by any duly authorized agent of the board.

(8) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: sections 333.051 and 333.111, RSMo 2000 and section 333.091, SB 1, Ninety-fifth General Assembly 2009. This rule originally filed as 4 CSR 120-2.040. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Sept. 5, 1990, effective March 14, 1991. Amended: Filed March 4, 1991, effective July 8, 1991. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.040, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed July 22, 2009, effective Jan. 30, 2010.*
**Original authority: 333.051, RSMo 1965, amended 1981, 1998; 333.091, RSMo 1965, amended 1981, 2009; and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

20 CSR 2120-2.060 Funeral Directing

PURPOSE: This rule outlines the provisions for the practice of funeral directing.

(1) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo shall provide the following to the board:

(A) Proof of being at least eighteen (18) years of age;
(B) Proof of possession of a high school diploma or equivalent;
(C) Evidence of being a person of good moral character;
(D) Proof of satisfactory completion of each section of the funeral director's examination;
(E) Affidavit of completion of a twelve (12) consecutive month apprenticeship; or official transcript and documentation indicating he/she is a graduate of an institute of mortuary science accredited by the American Board of Funeral Service Education or any successor organization recognized by the United States Department for Funeral Service Education; or has successfully completed a course in funeral directing offered by a college accredited by a recognized national, regional, or state accrediting body and approved by the State Board of Embalmers and Funeral Directors; or proof of being a Missouri licensed embalmer;
(F) Completed application form provided by the board;
(G) Proof of successful completion of the National Board Funeral Service Arts examination or the Missouri Funeral Service Arts examination, if applicable;
(H) Payment of all applicable fees;
(I) Satisfactory criminal history background check as provided to the board by the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol; and
(J) Any other information the board may require.

(2) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo, shall make application with the board for a Missouri funeral director license on the forms provided by the board and shall pay the funeral director application fee directly to the board. Application forms can be obtained from the board office or the board's website at http://pr.mo.gov/embalmers.asp.

(3) Effective July 30, 2004, the funeral director examination developed by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, shall consist of the Missouri Law section and the Missouri Funeral Service Arts section. In lieu of the Missouri Funeral Service Arts examination, successful completion of the National Board Funeral Service Arts examination results will be accepted.

(4) Effective January 1, 2023, the funeral director examination developed by the International Conference of Funeral Service Examining Boards, Inc., or other nationally accredited agency approved by the board, shall consist of the Missouri Law section and the National Board Funeral Service Arts section. The board will accept the successful score of the Missouri Arts examination taken prior to January 1, 2023, as long as the application, including the exam score, is submitted per the requirements as outlined in board rules.

(5) To serve as an apprentice funeral director, the applicant shall file with the board a completed funeral director application on the form prescribed by the board and also shall complete an application to be registered as an apprentice funeral director on the form prescribed by the board and pay all applicable fees. Application forms and a list of fees can be obtained from the board office or on the board's website at http://pr.mo.gov/embalmers.asp.

(6) The funeral director apprenticeship is not intended as a long-term method of practicing as a funeral director in the absence of progress toward licensure. Accordingly, effective February 28, 2010, an apprentice shall not be allowed to register with the board for more than two (2) apprenticeship periods that begin on or after February 28, 2010, unless otherwise approved by the board for good cause.

(7) Upon registration and payment in full of all applicable fees, the board shall issue the apprentice funeral director applicant a funeral director apprentice registration. This registration authorizes the apprentice registrant to engage in the practice of funeral directing under the supervision of a Missouri licensed funeral director. The funeral director apprentice registration, or a copy thereof, shall be displayed, at all times, in a conspicuous location accessible to the public at each establishment where the apprentice is working.

(8) The funeral director apprentice registration authorizes the registrant to engage in the practice of funeral directing only during the period of apprenticeship. Once the apprenticeship is successfully completed as defined in this rule, the funeral director apprentice registration shall become null and void. Any Missouri licensed funeral director who allows a former apprentice who has completed his/her apprenticeship to engage in the practice of funeral directing before that apprentice is fully licensed shall be subject to discipline for misconduct under section 333.121.2, RSMo.

(9) Each registered funeral director apprentice shall provide to the board, on the application prescribed by the

board, the name(s), location(s), and license number(s) of each funeral establishment(s) where they are serving as an apprentice. The funeral director apprenticeship may be served at a funeral establishment licensed by a state, other than Missouri, upon submission of proof to the board that the out-of-state funeral home is licensed for the care and preparation for burial and transportation of human dead in this state or another state which has established standards for admission to practice funeral directing equal to, or more stringent than, the requirement for admission to practice funeral directing in this state. The funeral director apprenticeship shall be served under the supervision of a Missouri licensed funeral director. If the funeral director apprentice changes funeral establishments during the course of the apprenticeship, the apprentice shall notify the board, on the form prescribed by the board, of the name(s), location(s), and funeral establishment(s) license number of the new apprenticeship location within ten (10) business days after the change has been made.

(10) Successful completion of a funeral director apprenticeship shall consist of the following:

(A) Completed service as an apprentice funeral director for a period consisting of at least twelve (12) consecutive months in a Function C funeral establishment; and
(B) Filing with the board a notarized affidavit(s) signed by the apprentice and his/her supervisor(s) that he/she has arranged for and conducted a minimum of ten (10) funeral ceremonies under the supervision of a Missouri licensed funeral director.

(11) An apprentice will be eligible to take the funeral director examination after completion of the twelve (12) consecutive month period of apprenticeship.

(12) An applicant will be deemed to have successfully completed the funeral director examination when a score of seventy-five (75) or better is achieved on each section. If the applicant fails a section of the examination, the applicant shall be permitted to retake that section of the examination.

(13) All notifications for the funeral director's examination shall be in writing and received by the board at least forty-five (45) days prior to the date the candidate plans to sit for the examination.

(14) A college accredited by a recognized national, state, or regional accrediting body may seek the approval of the State Board of Embalmers and Funeral Directors for a course of study in funeral directing by submitting a description of the program, the college catalog listing the course of study, and evidence that the program has been approved to be offered in that institution by the administration of the college and the Missouri Coordinating Board for Higher Education.

(15) An applicant shall be exempt from the requirement of successful completion of the Missouri Law examination if the applicant has successfully completed the Missouri Law examination for another Missouri license within the jurisdiction of the board if the current license remains in active status.

(16) Any funeral director that allows an unlicensed person to make at-need arrangements for the transportation or removal of a dead human body for or on behalf of the funeral director shall supervise the unlicensed person and shall be responsible for the conduct of the unlicensed person. This section shall not be construed to allow any unlicensed person to perform any other act for which a license is required by Chapter 333, RSMo.

(17) A Missouri licensed funeral director shall be present and personally shall supervise or conduct each funeral ceremony conducted by or from a Missouri licensed funeral establishment. A violation of this section will be considered misconduct in the practice of funeral directing.

(18) A Missouri licensed funeral director shall be present and personally shall supervise any disinterment, interment, entombment, or cremation as defined in 20 CSR 2120-1.040 conducted by a Missouri licensed funeral establishment. However, nothing in this rule shall be interpreted as requiring the presence of a Missouri licensed funeral director if the person(s) having the right to control the incidents of burial request otherwise. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. A violation of this section shall be deemed misconduct in the practice of funeral directing.

(A) Once the body has been delivered to a cemetery for the purpose of interment or to a crematory for the purpose of cremation and after any funeral ceremonies have been complete, the Missouri licensed funeral director is not required to stay with the body.
(B) Nothing in this rule shall be interpreted as requiring the Missouri licensed funeral director to leave the cemetery before disposition is complete. Furthermore, nothing in this rule shall be interpreted as relieving the Missouri licensed funeral director of any responsibilities he/she has under his/her contract with the person(s) having the right to control the incidents of burial.

(19) Any licensed funeral establishment or funeral director that makes arrangements for an unlicensed person to transport dead human bodies within the state of Missouri, or out of this state, is responsible for the conduct of the unlicensed person.

(20) A funeral director or funeral establishment licensed in another state that enters the state of Missouri solely for the purpose of transporting a dead human body through Missouri to another state, country, or territory shall not be deemed to be in the practice of funeral directing or required to obtain a license from the board. This regulation does not exempt any person or entity from complying with any applicable statutes or regulations governing the transportation of dead human bodies, including, but not limited to, Chapters 193 and 194, RSMo.

(21) A Missouri licensed funeral establishment or funeral director shall not allow an unlicensed person to make the following at-need arrangements with the person having the right to control the incidents of disposition:

(A) Arrangements for final disposition, supervision of visitation and memorial ceremony, grave attendance, cremation, entering into a contractual relationship for performance of any other funeral services;
(B) Embalming, cremation, care, or preparation; and
(C) Nothing in this subsection shall be construed to apply to persons exempt from Chapter 333, RSMo.

(22) The taking of preliminary information by an unlicensed person will not be construed as the making of at-need funeral arrangements under this rule.

(23) No temporary Missouri funeral director license authorized under section 333.041.7, RSMo, will be issued until the board has been advised as to the location of the Missouri licensed funeral establishment at which the temporary funeral director's license will be used. The holder of the temporary license shall be authorized to only work at the Missouri licensed funeral establishment(s) where the deceased and/or disabled Missouri licensed funeral director was authorized to work. Violation of this rule will be deemed unauthorized practice of funeral directing.

(24) The business and practice of funeral directing may be conducted only from a fixed place or establishment which has been licensed by the board.

(25) Limited License.

(A) A person holding a limited license shall only be allowed to work in a funeral establishment that is licensed as a Function B establishment (cremation only). A limited funeral director shall only engage in the activities of funeral directing authorized for a Function B funeral establishment.
(B) Every person desiring a limited license shall provide the following to the board:

1. Proof of being at least eighteen (18) years of age;
2. Proof of possession of a high school diploma or its equivalent;
3. Evidence of being a person of good moral character;
4. Proof of successful completion by achieving a score of seventy-five (75) or better on the Missouri Law examination;
5. Completed application form as provided by the board;
6. Payment of applicable fees;
7. Payment of any fee charged by the Missouri Highway Patrol for a criminal history background check; and
8. Any other information the board may require.

(C) Every limited licensee shall provide the board with the name, location, and license number of each Function B funeral establishment where he/she is employed.
(D) A limited licensee shall be obligated to comply with all Missouri laws governing funeral directors subject to the limitations imposed by this rule and section 333.042.2, RSMo.
(E) If a limited licensee desires to obtain a full funeral director's license, the licensee shall be required to complete an apprenticeship consisting of at least twelve (12) consecutive months as required by section 333.042.2, RSMo, and accompanying regulations or fulfill the education requirements set forth in section 333.042.3, RSMo. The limited licensee shall also provide to the board proof of successful completion of the remaining sections of the funeral director examination as required by these regulations. The applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section within twelve (12) months of the date that the board receives the new application.

(26) All certificates, registrations, and licenses, or duplicate copies thereof, issued by the State Board of Embalmers and Funeral Directors shall be displayed at all times in a conspicuous location accessible to the public

in each office(s) or place(s) of business where they work, for inspection by any duly authorized agent of the board.

(27) Should an individual desire to obtain a Missouri funeral director's license after his/her license has become void under section 333.081.3, RSMo, the individual shall be required to make new application and pay all applicable fees to the board. No previous apprenticeship, application, or examination will be considered for the new application. However, the board shall accept the successful completion of the National Board Funeral Service Arts or the Missouri Funeral Service Arts, if applicable, examination for new application.

(28) A Missouri licensed funeral director may engage in the practice of funeral directing in the state of Missouri only in Missouri licensed funeral establishments. Each Missouri licensed funeral director shall inform the board in writing, in a timely manner, of each Missouri licensed funeral establishment name(s), location(s), and license number(s) where the Missouri licensed funeral director is engaged in funeral directing.

(29) A Missouri licensed funeral director has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or *nolo contendere*, in a criminal prosecution under the laws of any state or of the United States, whether or not sentence was imposed. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

(30) Person Deemed to be Engaged in the Practice of Funeral Directing.

(A) No person shall be deemed by the board to be engaged in the practice of funeral directing or to be operating a funeral establishment if the person prepares, arranges, or carries out the burial of the dead human body of a member of one's own family or next of kin as provided by section 194.119, RSMo, provided that the activity is not conducted as a business or for business purposes.

(B) The board shall not deem a person to be engaged in the practice of funeral directing or to be operating a funeral establishment if the person prepares, arranges, or carries out the burial of a dead human body pursuant to the religious beliefs, tenets, or practices of a religious group, sect, or organization, provided that the activity is not conducted as a business or for business purposes.

(31) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: sections 333.041 and 333.042, RSMo Supp. 2022, and sections 333.091, 333.111, and 333.330, RSMo 2016. This rule originally filed as 4 CSR 120-2.060. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency amendment filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Dec. 2, 1983, effective April 12, 1984. Amended: Filed July 29, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1989, effective Dec. 28, 1989. Amended: Filed Sept. 5, 1990, effective March 14, 1991. Amended: Filed March 4, 1991, effective July 8, 1991. Amended: Filed March 26, 1991, effective Sept. 30, 1991. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Rescinded and readopted: Filed Sept. 8, 1998, effective Jan. 30, 1999. Amended: Filed July 26, 1999, effective Jan. 30, 2000. Amended: Filed March 10, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Amended: Filed Sept. 15, 2004, effective April 30, 2005. Moved to 20 CSR 2120-2.060, effective Aug. 28, 2006. Amended: Filed Feb. 16, 2006, effective Sept. 30, 2006. Amended: Filed Nov. 15, 2007, effective May 30, 2008. Amended: Filed July 22, 2009, effective Jan. 30, 2010. ** Amended: Filed Aug. 30, 2022, effective Feb. 28, 2023.*
**Original authority: 333.041, RSMo 1965, amended 1969, 1977, 1981, 1983, 1993, 1998, 2001, 2011, 2018, 2020; 333.042, RSMo 1993, amended 1998, 2001, 2011, 2018; 333.091, RSMo 1965, amended 1981, 2009, 2011; 333.111, RSMo 1965, amended 1981, 1993, 1995; and 333.330, RSMo 2009.*
***Pursuant to Executive Order 21-07, 20 CSR 2120-2.060 was suspended from April 10, 2020 through April 23, 2021.*

20 CSR 2120-2.070 Funeral Establishments

PURPOSE: This rule clarifies establishment license classifications, establishment names, and the documents to be maintained by licensed funeral homes.

(1) Application for a Missouri licensed funeral establishment license shall be made on the forms provided by the board and be accompanied by the appropriate fee. Applications are available from the board's office or the board's website at http://pr.mo.gov/embalmers.asp. Each application shall indicate which license classification is being sought.

(2) There shall be the following license classifications.

(A) Function A establishments shall have authority to embalm dead human bodies and to transport dead human bodies to and from the funeral establishment. An establishment licensed only as a Function A establishment is prohibited from the care and preparation of dead human bodies other than by embalming, and also be prohibited from making funeral arrangements or embalming arrangements with any unlicensed person, cremating, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies, or selling of funeral merchandise. Each Missouri licensed funeral establishment used solely or partially for embalming shall contain a preparation room that shall be devoted to activities of, or related to, the preparation or the embalming, or both, of dead human remains and shall be equipped and maintained as described in 20 CSR 2120-2.090. Each Function A funeral establishment licensed for embalming shall maintain on the premises a register log.

(B) Function B establishments shall have authority to cremate through the use of any mechanical or chemical means dead human bodies and to transport dead human bodies to and from the funeral establishment. This establishment shall have a functioning cremation chamber and/or functioning facilities for alkaline hydrolysis chemical process for final disposition of a dead human body, except as otherwise provided by Chapter 333, RSMo, and the rules of the board. An establishment licensed only as a Function B establishment is prohibited from the care and preparation of dead human bodies other than by cremating, and is also prohibited from embalming, making funeral arrangements or cremation arrangements with any unlicensed person, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies or selling funeral merchandise. In no event shall any licensee or licensed establishment cremate human remains in the same retort used for cremating non-human remains. Each Missouri licensed funeral establishment which is used solely or partially for cremations shall be equipped and maintained as described in 20 CSR 2120-2.071. This function shall maintain on the premises in the cremation area a cremation log.

(C) Function C establishments shall have authority for the care and preparation of dead human bodies, other than by embalming or cremating, authority to transport dead human bodies to and from the funeral establishment, make funeral arrangements, furnish any funeral services in connection with the disposition of dead human bodies or the sale of funeral merchandise, and file death certificates. This function shall contain a separate area for the care and custody of dead human remains that is secured with a functioning lock and a separate area for confidential conferences to arrange funeral services. The Function C establishment shall have on-site equipment necessary for arranging funeral services including tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records. This function shall contain an available restroom and drinking water in the building and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, and officiate stand. This function shall maintain on the Missouri premises the following documents:

1. General price list;
2. Preneed contracts which have been cancelled or fulfilled;
3. Written Statements of Goods and Services;
4. Authorizations to embalm or cremate; and
5. Register log.

(D) Function D establishments shall have authority to conduct visitations and funeral ceremonies only. A Function D license is dependent upon and shall be operated under the supervision and ownership of a Function C establishment. This function shall contain an available restroom and drinking water in the building, and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, and officiate stand. Each Function D funeral establishment shall maintain on the premises a register log.

(E) Function E establishment shall have authority to make funeral arrangements and furnish any funeral services in connection with the disposition of dead human bodies or the sale of funeral merchandise and file death certificates. This function shall have a separate area for confidential conferences to arrange funeral

services. The Function E establishment shall have on site tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records. This function shall contain an available restroom and drinking water in the building. The establishment is to be used only for arranging funerals and visitations to be conducted at another facility, no services shall be held at this establishment. This function shall maintain on the premises the following documents:

1. General price list;
2. Preneed contracts which have been cancelled or fulfilled;
3. Written Statements of Goods and Services;
4. Authorizations to embalm or cremate; and
5. Register log.

(3) If a Missouri licensed funeral establishment wishes to add to its classification, it shall file a new application for a Missouri licensed funeral establishment indicating its new classification. If a Missouri licensed funeral establishment desires to eliminate one (1) of its functions, it shall notify the board in writing of its intention to surrender the function, but is not required to file a new application for a new Missouri licensed funeral establishment.

(4) A Missouri licensed funeral establishment shall be used only for the function for which it is licensed.

(5) Each application for a funeral establishment shall be made in the name of the person or business entity authorized to conduct business in Missouri. No license shall be issued to an establishment that has no legal recognition. A Missouri licensed funeral establishment shall maintain a current and active authorization to conduct business in Missouri with the Missouri Secretary of State.

(6) A funeral establishment application shall indicate the name and license number of the Missouri licensed funeral director-in-charge, as defined by 20 CSR 2120-1.040. When the Missouri licensed funeral director-in-charge changes, the new Missouri licensed funeral director-in-charge and the former Missouri licensed funeral director-in-charge, jointly or individually, shall notify the board of the change within fifteen (15) days of the date when the change first occurs. Failure to notify the board is a violation of this rule on the part of each Missouri funeral director licensee and on the part of the Missouri licensed funeral establishment. A change in the Missouri licensed funeral director-in-charge does not require a new Missouri licensed funeral establishment license.

(7) Within thirty (30) days after an application for a Missouri licensed funeral establishment has been received in the board's office, the board shall cause the establishment to be inspected. The board shall act on the application and, within thirty (30) days after the application was received in the board's office, the applicant will be advised whether the license is granted or denied. If an applicant determines the establishment will not meet the qualifications for inspection or licensure within the thirty- (30-) day application period, up to two (2) thirty- (30-) day extensions of the application may be requested by the applicant in writing to the board before the application expires. Each request for an extension shall be received by the board prior to the expiration of the application or extension period.

(8) The establishment license issued by the board is effective for a fixed place or establishment and for a specific name of a person or entity authorized to conduct business in Missouri. The license issued by the board shall be displayed in a conspicuous location accessible to the general public at that location. Whenever the ownership, location, or name of the Missouri licensed establishment is changed, a new license shall be obtained. If the Missouri licensed funeral establishment maintains a chapel, preparation room, or other facility in a building or portion physically separated from and located at a place designated by an address differing from the office, chapel, or other facilities of the applicant, the chapel, preparation room, or other funeral facility otherwise located shall be deemed to be a separate funeral establishment. Nothing contained in this rule shall be construed or interpreted to require a separate registration for a building if it is joined or connected by a private passage, walk or driveway existing between the registered establishment and the other building.

(A) If a change of ownership is caused by the elimination of a majority of the owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new establishment license. However, a new application for an establishment license form shall be filed as an amended application prior to the change of ownership.

(B) A corporation is considered by law to be a separate person. If a corporation owns a Missouri licensed funeral establishment, it is not necessary to obtain a new establishment license or to file an amended application for an establishment license if the owners of the stock change.

(C) However, as a separate person, if a corporation begins ownership of a Missouri licensed funeral establishment or ceases ownership of a Missouri licensed funeral establishment, a new establishment license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.

(9) The professional business and practice of funeral directing shall be conducted only from a fixed place or establishment that has been licensed by the board except as permitted by section 333.071, RSMo. The Missouri licensed funeral establishment physical facility shall be under the general management and supervision of the Missouri licensed funeral director-in-charge. Every Missouri licensed funeral establishment shall provide and allow access to any member or agent of the board for the purpose of inspection, investigation, examination, or audit as authorized in Chapters 333 and 436, RSMo. If any representative of the Missouri licensed funeral establishment fails or refuses to provide or allow access, it shall be considered a violation of this rule by the Missouri licensed funeral establishment and by the Missouri licensed funeral director-in-charge of the Missouri licensed funeral establishment. Additionally, if the Missouri licensed funeral establishment representative who fails or refuses to provide or allow access holds any license or registration issued by this board, that person is in violation of this rule.

(10) No one licensed by this board may be employed in any capacity by an unlicensed funeral establishment. Violation of this section will be deemed misconduct in the practice of embalming or funeral directing.

(11) Only one (1) Missouri funeral establishment license will be issued by this board for any physical address that is considered to be a Missouri licensed funeral establishment as defined by statute and rule.

(12) If a Missouri funeral establishment licensed by this board is destroyed by fire or some other disaster or act of God, the board, in its discretion, for a period of not more than six (6) months, may allow the Missouri licensed funeral establishment to continue its operation from another Missouri licensed funeral establishment or from a facility that has not been licensed as a funeral establishment if the facility meets the minimum requirements for the functions outlined in section (2) of this rule. The temporary location is not intended for long-term use, but rather as a means to maintain the business of the Missouri licensed establishment while it actively pursues the steps necessary to re-open its facilities at the licensed location.

(A) If the Missouri licensed funeral establishment has not been able to re-open its facilities at the licensed location within the initial six (6) months, then the Missouri licensed funeral establishment may make a written request to the board for an additional six (6) months to continue to operate from its temporary location which the board may grant, at its discretion. In order to operate at a temporary location, the Missouri licensed funeral establishment must take all steps necessary to maintain its establishment license in a current and active status.

(B) If the Missouri licensed funeral establishment is unable to re-open its facilities at its licensed location after the expiration of the second six (6) month extension, then the Missouri licensed funeral establishment may make a written request and make an appearance before the board to present its plan to re-open at the licensed location and show good cause for any additional extension.

(C) Before a Missouri licensed funeral establishment operates at any location other than its licensed location, that establishment must make a written request to the board that sets forth the reason a temporary location is required, the address of the requested temporary location, and show a legal right to occupy the premises at the temporary location that may include a deed, a rental agreement, a letter from the owner of the temporary location, or other similar written documentation. Upon approval of the temporary location, the board shall issue its written notice of approval. The temporary location may not be used by the licensee until it receives that written notice of approval from the board.

(D) When the Missouri licensed funeral establishment is ready to re-open the facilities at the licensed location, it must notify the board, in writing, that it is ready to re-open and the board will conduct an inspection to ensure the facilities at the licensed location comply with all requirements to be operated as a licensed establishment and upon approval will provide written notice to the establishment that it is approved to resume operations at the licensed location. No new application or application fee shall be required.

(E) In order to operate at a temporary location, the Missouri licensed funeral establishment must take all steps necessary to maintain its establishment license in a current and active status.

(13) A Missouri licensed funeral establishment may use only its registered name(s) that are registered with the board in any advertisement or holding out to the public.

(A) All signs, stationery, and any advertising in newspapers, publications or otherwise, shall include the name(s) of the Missouri licensed funeral establishment registered with the board.

(B) It is not deemed to be misleading if a listing appears in a telephone directory or national directory if the name of the Missouri licensed funeral establishment changes after the listing has been placed, but before a new directory is published.

(14) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be maintained in a manner that does not present a potential or actual hazard to the health, safety, or welfare of the public and kept free and clean of litter, dirt, debris, and clutter.

(15) No person is permitted in a preparation room during the course of embalming a dead human body except the employees of the Missouri licensed funeral establishment in that the human body is being embalmed, members of the family of the deceased, and persons authorized by the members of the family of the deceased, or any person otherwise authorized by law.

(16) According to section 333.330, RSMo, the State Board of Embalmers and Funeral Directors may impose disciplinary action for failure to obtain authorization to embalm from the person entitled to custody or control of the body, if the body is embalmed. If the body is not embalmed, a Missouri licensed funeral establishment shall not hold the unembalmed body for any longer than twenty-four (24) hours unless the unembalmed body is refrigerated in a cooling unit at a temperature of forty degrees Fahrenheit (40° F) or cooler or encased in an airtight metal or metal-lined burial case, casket or box that is closed and hermetically sealed. If the deceased gave written authorization to embalm and did not revoke the authorization, the authorization shall satisfy this requirement. If the deceased did not give written authorization to embalm, the next of kin of the deceased may give authorization to embalm. Authorization to embalm may be given by the next of kin prior to the death of the person whose body is to be embalmed. Authorization to embalm given prior to death may be in any written document, including a preneed contract.

(A) The next of kin, for purposes of this rule, is defined pursuant to section 194.119.2, RSMo.
(B) Any person or friend who assumes responsibility for the disposition of the deceased's remains if no next of kin assumes such responsibility may authorize to embalm the deceased;
(C) The county coroner or medical examiner pursuant to the provisions of Chapter 58, RSMo may authorize to embalm the deceased;
(D) If the body is required to be buried at public expense, the body shall be disposed of according to the terms of section 194.150, RSMo;
(E) If the Missouri licensed funeral establishment receives no authorization to embalm from any of the persons identified in subsections (16)(A), (B), or (C) of this rule, the Missouri licensed funeral establishment may proceed with embalming if it has attempted to locate a person from whom authorization to embalm may be obtained for at least six (6) hours and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate such a person. However, the Missouri licensed embalmer may proceed to embalm sooner if the condition of the body is such that waiting for six (6) hours would substantially impair the ability to effectively embalm the body or if the deceased died as a result of a communicable disease, was subject to isolation at the time of death; and
(F) If a Missouri licensed embalmer proceeds to embalm a body under the provisions of subsection (16)(E), the Missouri licensed funeral establishment which employs the Missouri licensed embalmer shall not require payment for the embalming unless the funeral arrangements that are subsequently made authorized the embalming.

(17) Each Missouri licensed funeral establishment shall maintain documentation of the following information regarding authorization to embalm a body which is embalmed by or on behalf of the Missouri licensed funeral establishment—

(A) When authorization to embalm is given in writing:

1. The name of the deceased;
2. The name and signature of the person who is authorizing embalming;
3. The relationship of that person to the deceased;
4. The time and date authorization to embalm was given; and
5. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment; and

(B) Authorization to embalm shall be given in writing if the person authorizing embalming is present in the Missouri licensed funeral establishment or in the physical presence of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment. If verbal authorization to embalm is given,

the Missouri licensed funeral establishment shall document:

1. The name of the person who is actually authorizing embalming, if different from the person who is verbally communicating authorization to embalm to the Missouri licensed funeral establishment;
2. The relationship of that person to the deceased;
3. The name of the person who is verbally communicating authorization to embalm and that person's relationship to the person who is actually authorizing embalming;
4. The time and date authorization to embalm was given; and
5. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment.

(18) Each Function A funeral establishment licensed for embalming shall maintain on the premises in the preparation room a register log.

(19) All documents required by this rule to be maintained, shall be maintained on the premises of the Missouri licensed funeral establishment for two (2) years from the date the record was created. All documents required to be maintained by this rule may be maintained electronically, but all documents shall be stored in such a manner to allow access by the board and so the board, or its assignee, may easily and timely obtain hard copies or electronic copies in a format easily readable by the board, or its assignee.

(20) Each funeral establishment shall maintain a register log on the premises of the licensed funeral establishment and be easily accessible and in full view for a board inspector. A register log shall include the following:

(A) The name of the deceased;
(B) The date and time the dead human body arrived at the funeral establishment;
(C) The date and time the embalming took place, if applicable;
(D) The name and signature of the Missouri licensed embalmer, if applicable;
(E) The name and signature of the Missouri registered apprentice embalmer, if any;
(F) The Missouri licensed embalmer's license number, if applicable;
(G) The Missouri apprentice embalmer registration number, if any; and
(H) The name of the licensed funeral establishment, or other that was in charge of making the arrangements if from a different location.

(21) No dead human body shall be buried, disinterred, interred, or cremated within this state or removed from this state, unless the burial, disinterment, interment, cremation, removal, or other authorized disposition, is performed under the direction of a Missouri licensed funeral establishment or Missouri licensed funeral director, unless otherwise authorized by law. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. Nothing in this rule shall be interpreted to require the use of a Missouri licensed funeral establishment or director if the person(s) having the right to control the incidents of burial request or determine otherwise, provided that this provision does not exempt any person from licensure as required by Chapter 333, RSMo.

(22) A licensee shall be prohibited from knowingly using, placing, or including any false, misleading, deceptive, or materially incorrect information, or assisting or enabling any person to provide such information, on a death certificate filed in the state of Missouri.

(23) Whenever a dead human body is donated to a medical or educational institution for medical and/or scientific study and arrangements for return of the body to the legal next of kin have not been made, then delivery of the body to the medical or educational institution shall constitute final disposition. If, however, arrangements for return of the body to the legal next of kin have been made, then final disposition shall be the burial, interment, cremation, or removal of the body out of this state, after the medical or educational institution has returned the body.

AUTHORITY: sections 333.061, 333.091, 333.111, and 333.145, RSMo 2016. This rule originally filed as 4 CSR 120-2.070. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Aug. 6, 1982, effective Nov. 11, 1982. Amended: Filed Sept. 12, 1985, effective Dec. 26, 1985. Rescinded and readopted: Filed May 28, 1987, effective Sept. 11, 1987. Amended: Filed June 24, 1988, effective Sept. 29, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1989, effective Dec. 28, 1989. Amended: Filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed Sept. 5, 1990, effective March 14, 1991. Amended: Filed March 4, 1991, effective Sept.*

*30, 1991. Amended: Filed Aug. 15, 1991, effective Jan. 13, 1992. Amended: Filed Dec. 14, 1992, effective June 7, 1993. Amended: Filed Nov. 29, 1994, effective July 30, 1995. Amended: Filed Sept. 3, 1996, effective April 30, 1997. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.070, effective Aug. 28, 2006. Amended: Filed Nov. 15, 2007, effective May 30, 2008. Amended: Filed April 8, 2009, effective Oct. 30, 2009. Amended: Filed Nov. 6, 2019, effective May 30, 2020. ***

**Original authority: 333.061, RSMo 1965, amended 1981, 2001, 2011; 333.091, RSMo 1965, amended 1981, 2009, 2011; 333.111, RSMo 1965, amended 1981, 1993, 1995; and 333.145, RSMo 1981.*

***Pursuant to Executive Order 21-07, 20 CSR 2120-2.070 was suspended from April 10, 2020 through April 23, 2021.*

20 CSR 2120-2.071 Funeral Establishments Containing a Crematory Area

PURPOSE: This rule outlines the requirements and procedures for operating a crematory establishment in Missouri.

(1) No dead human body shall be cremated in this state except in a funeral establishment licensed by the board as a Function B establishment.

(2) Each Missouri licensed funeral establishment that contains a crematory area shall maintain permanent records that include:

(A) A written authorization for cremation executed prior to cremation by the person entitled to custody or control of the body which shows the time and date when authorization for cremation was given; and

(B) Information regarding the cremation shall include:

1. The full name of the deceased;
2. The last place of residence of the deceased;
3. The place of death of the deceased;
4. The place of birth of the deceased;
5. The date and place of the funeral;
6. The name of the licensed funeral director, other than a funeral director limited, with whom the arrangements were made;
7. The name of the person(s) who made the arrangements with the licensed funeral director and the relationship to the deceased;
8. The date and time when cremation was begun;
9. The name and address of the person to whom the cremated remains were released or the location where the cremated remains were placed;
10. If the cremated remains were delivered or placed other than by an employee of the Missouri licensed funeral establishment, the name of the person who made the delivery or placement or the name of the business by which the cremated remains were shipped along with the receipt number; and
11. If cremation is to be performed by chemical disposition, the written authorization shall also include:

A. Specific consent for cremation by chemical process with an explanation of the process to be utilized; and

B. Disclosures on the disposition of personal property including, but not limited to, jewelry, medical devices, and any other items that might remain after the chemical disposition process is complete.

(3) Cremation log—a written record or log kept in the cremation area available at all times in full view, which will include the following:

(A) The name of the deceased to be cremated;
(B) The name of the Missouri licensed establishment where the body is cremated;
(C) The date and time the body arrived at the crematory;
(D) The date and time the cremation took place;
(E) The name and signature of the Missouri licensed funeral director supervising the cremation;
(F) The supervising Missouri licensed funeral director's license number;
(G) The name of the Missouri licensed funeral establishment that was in charge of making the arrangements if from a different location; and
(H) The type of cremation performed.

(4) All records required to be maintained by this rule shall be maintained on the premises of the Missouri li-

censed funeral establishment for two (2) years from the date the record was created. All documents required to be maintained by this rule may be maintained electronically, but all documents shall be stored in such a manner to allow access by the board, or its assignee, and so the board, or its assignee, may easily and timely obtain hard copies or electronic copies in a format easily readable by the board, or its assignee.

(5) If the deceased gave written authorization to cremate and did not revoke the authorization, that authorization shall satisfy the requirement for authorization to cremate. If the deceased did not give written authorization to cremate, the next of kin of the deceased or the county coroner or medical examiner pursuant to Chapter 58, RSMo, may give authorization to cremate. Authorization to cremate given prior to the death may be in any written document, including a preneed contract. The next of kin, for purposes of this rule, is defined in section 194.119.2, RSMo.

(6) If the Missouri licensed funeral establishment receives no authorization for cremation from any of the persons identified in section (5) of this rule, the Missouri licensed funeral establishment may proceed with cremation if it has attempted to locate a person from whom authorization to cremate may be obtained for at least ten (10) days and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate a person from whom authorization for cremation could be obtained but have been unable to locate such a person. However, the Missouri licensed funeral establishment may proceed with cremation prior to the elapse of twenty-four (24) hours if the deceased died as a result of a communicable disease, was subject to isolation at the time of death, and has not been properly embalmed in accordance with 19 CSR 20-24.010.

(7) The cremation chamber shall be completely functioning at all times and shall be constructed specially to withstand high temperatures and/or chemicals used in the cremation and to protect the surrounding structure. A Function B establishment shall not be in violation of this rule if the cremation chamber is completely restored to functioning capacity within one hundred twenty (120) days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances and the cremation chamber could not be repaired, documentation of such shall be provided to the board for review and approval. Cremation chambers shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations, and Missouri Department of Natural Resources, statutes, rules and regulations.

(A) If a Function B has only one (1) cremation chamber and that chamber is not functioning, written notification shall be made to the board within ten (10) business days after the cremation chamber stops functioning.
(B) A Function B establishment that has a nonfunctioning cremation chamber may arrange for cremation at another licensed establishment, if the use of an alternate establishment for purposes of cremation is disclosed to the person making the arrangements on the cremation authorization form and the type of cremation performed is as authorized in the written authorization to cremate. In no event shall any licensee or licensed establishment cremate human remains in the same retort or the same processor used for cremating non-human remains.

(8) The crematory area shall include a work center area equipped with forced air ventilation adequate to protect the health and safety of the operator and any other person(s) present.

(9) No person shall be permitted in the crematory area while any dead human body is in the crematory area awaiting cremation or being cremated or while the cremation remains are being removed from the cremation chamber except the Missouri licensed funeral director, the Missouri licensed embalmer, employees of the Missouri licensed funeral establishment in which the body is being cremated, members of the family of the deceased, persons authorized by the members of the family of the deceased, or any other person authorized by law.

(10) When there is no Missouri licensed funeral establishment employee in the crematory area, the crematory area shall be secure from entry by persons other than Missouri licensed funeral establishment employees or a Missouri licensed embalmer authorized by the funeral establishment.

(11) Each dead human body delivered to the crematory, if not already in a cremation container, plastic pouch, cardboard cremation container, casket made of wood or wood product or metal, shall be placed in such a pouch, container or casket. If a metal container or casket is used, the person making the arrangements shall be informed by the Missouri licensed funeral director with whom the arrangements are made of the disposition of the metal container or casket after cremation, if not placed in the retort. The cremation container shall be composed of a combustible, nonexplosive, opaque material which is adequate to assure protection to the

health and safety of any person in the crematory area. The casket or container shall be leak resistant if the body enclosed is not embalmed or if death was caused by a contagious disease. Each cremation box or urn into which the cremated remains are placed after removal from the cremation chamber shall be labeled clearly with the full name of the deceased and the name of the Missouri licensed funeral establishment with whom the arrangements were made, pursuant to Chapter 193, RSMo.

(12) The Missouri licensed funeral director with whom the arrangements are made shall make inquiry to determine the presence or existence of any body prosthesis, bridgework, or similar items.

(13) No dead human body shall be cremated, except for cremation by chemical disposition, with a pacemaker in place. The Missouri licensed funeral director with whom the arrangements are made shall take all steps necessary to ensure that any pacemakers are removed prior to cremation.

(14) The remains of only one (1) body shall be in the cremation chamber at one (1) time unless simultaneous cremation has been authorized in writing by the person(s) entitled to custody or control of each body.

(15) Following the completion of the cremation process, residual of the cremation process including the cremated remains and any other matter shall be thoroughly removed from the cremation chamber prior to placing another body in the cremation chamber.

(16) The cremation box shall be composed of rigid materials which shall be sealed in order to prevent the leakage of cremated remains or the entry of foreign objects.

(17) If the cremated remains are to be shipped, the cremation box shall be packed securely in a sturdy and sealed shipping container acceptable to the shipper.

(18) Cremated remains shall be shipped only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery.

(19) Each urn into which cremated remains are placed by a licensee or funeral establishment shall be made of a durable material which shall enclose the cremated remains entirely.

(20) Each Missouri licensed funeral establishment which comes into possession of cremated remains, whether or not it is the Missouri licensed funeral establishment at which the cremation occurred, shall retain the cremated remains until they are delivered, placed, or shipped pursuant to the instructions of the person(s) entitled to custody or control of the body. However, nothing in this rule shall prohibit a Missouri licensed funeral establishment from disposing of cremated remains in another fashion if the Missouri licensed funeral establishment has obtained written permission for other disposition contingent upon the Missouri licensed funeral establishment attempting to dispose of the cremated remains according to instructions but being unable to do so through no fault of the Missouri licensed funeral establishment and provided that other disposition shall not occur prior to thirty (30) days after cremation. Any Missouri licensed funeral establishment that comes into possession of unclaimed cremated remains may also dispose of these remains pursuant to Chapter 194, RSMo.

(21) Nothing in this rule shall be construed to prohibit a Missouri licensed funeral establishment which contains a crematory area from establishing more restrictive standards for its own operation.

AUTHORITY: sections 333.061, 333.111, 333.145, and 333.340, RSMo 2016. This rule originally filed as 4 CSR 120-2.071. Original rule filed May 29, 1987, effective Sept. 11, 1987. Amended: Filed Jan. 15, 1988, effective April 11, 1988. Amended: Filed April 16, 1990, effective Sept. 28, 1990. Amended: Filed Nov. 15, 1991, effective April 4, 1992. Amended: Filed Sept. 3, 1996, effective April 30, 1997. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.071, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed April 8, 2009, effective Oct. 30, 2009. Amended: Filed March 9, 2020, effective Sept. 30, 2020.*
**Original authority: 333.061, RSMo 1965, amended 1981, 2001, 2011; 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.145, RSMo 1981; and 333.340, RSMo 2009.*

20 CSR 2120-2.080 Written Statement of Charges

PURPOSE: This rule establishes a minimum disclosure requirement to provide better safeguards to Missouri citizens purchasing funeral services and merchandise and in particular, purchases of caskets and outer burial containers by requiring specific identifying information to be included on the written statement of charges.

(1) Every Missouri licensed funeral director responsible for providing funeral services or arranging for the delivery of any funeral merchandise, shall give or cause to be given to the person(s) making such arrangements

a written statement of charges for the funeral merchandise and funeral services selected.

(2) At the time of need, a written statement of charges shall be completed and given to the person making the at-need arrangements. The written statement of charges shall be completed prior to the rendering of the funeral services or providing merchandise, and at a minimum, contain the following:

(A) The name and signature of the Missouri licensed funeral director responsible for making the arrangements or providing the funeral merchandise;
(B) The name and address of the Missouri licensed funeral establishment in charge of providing the merchandise or funeral services;
(C) The name, address and signature of the person making the at-need arrangements;
(D) The date of the signatures;
(E) The name of the deceased;
(F) The date of death;
(G) The price of the service(s) selected and the price of the supplemental (additional) items;
(H) The price of the merchandise selected including a detailed description of the casket and outer burial container;
(I) The amount and description of all cash advance items; and
(J) The method of payment.

(3) A preneed contract shall not be substituted for the written statement of charges.

(4) Violations of this rule will be deemed misconduct in the practice of funeral directing.

AUTHORITY: sections 333.111 and 333.145, RSMo 2016. This rule originally filed as 4 CSR 120-2.080. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Nov. 10, 1976, effective March 11, 1977. Emergency amendment filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Amended: Filed Nov. 8, 1978, effective Feb. 11, 1978. Rescinded: Filed Jan. 13, 1982, effective April 11, 1982. Readopted: Filed Nov. 29, 1994, effective July 30, 1995. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed May 3, 2004, effective Sept. 30, 2004. Moved to 20 CSR 2120-2.080, effective Aug. 28, 2006. Amended: Filed June 12, 2019, effective Dec. 30, 2019.*
**Original authority: 331.111, RSMo 1965 amended 1981, 1993, 1995 and 333.145, RSMo 1981.*

20 CSR 2120-2.090 Preparation Rooms/Embalming Room

PURPOSE: This rule outlines the laws and rules governing the standards required of funeral establishment preparation rooms.

(1) Whenever used in this rule, the phrase preparation room refers to that room in a Missouri licensed funeral establishment where dead human bodies are embalmed.

(2) The following requirements for the maintenance and cleanliness of preparation rooms apply at all times, regardless of whether a dead human body is being embalmed or not.

(3) Floors, Walls, and Ceilings. All preparation room floor surfaces shall be smooth, nonabsorbent materials and so constructed as to be kept clean easily. All walls and ceilings shall be easily cleanable and light colored, and shall be kept and maintained in good repair. All walls shall have washable surfaces.

(4) Sewage and Liquid Waste Disposal.

(A) All sewage and water-carried wastes from the entire Missouri licensed funeral establishment, including the preparation room, shall be disposed of in a public sewage system or an approved disposal system which is constructed, operated, and maintained in conformance with the minimum standards of the Missouri Department of Health and Senior Services and Missouri Department of Natural Resources.
(B) The following aspirators are approved for preparation rooms:

1. Electric aspirators;
2. Water-operated aspirators. All water-operated aspirators shall be protected from back siphonage by the minimum of an atmospheric vacuum breaker that is installed a minimum of six inches (6”) above the highest point of the embalming table and is approved by the American Society of Sanitary Engineering (ASSE) or by the Uniform Plumbing Code; and
3. Water-controlled unit. All water-controlled units shall be installed and maintained according to the Uniform Plumbing Code, and properly protected from back siphonage with a backflow prevention device approved by the American Society of Sanitary Engineering or the Uniform Plumbing Code.

(5) Solid Waste Disposal. All waste materials, refuse, bandages, cotton, and other solid waste materials shall be kept in leakproof, nonabsorbent containers which are properly sealed.

(6) Disposal of Body Parts. Human body parts not buried within the casket shall be disposed of by incineration in a commercial or industrial-type incinerator or buried to a depth which will insure a minimum of three feet (3') of compacted earth cover (overlay).

(7) A mechanical exhaust system is required. Care shall be taken to prevent the discharge of exhaust air into an area where odors may create nuisance problems.

(8) All preparation rooms and all articles stored in them shall be kept and maintained in a clean and sanitary condition. All embalming tables, hoppers, sinks, receptacles, instruments, and other appliances used in embalming or other preparation of dead human bodies shall be so constructed that they can be kept and maintained in a clean and sanitary condition. The following minimum standards shall apply:

(A) An eye wash kit (bank) or suitable facilities for quick drenching or flushing of the eyes shall be provided within the area for immediate emergency use;
(B) Facilities for the proper disinfection of embalming instruments and the embalming table;
(C) Facilities for the proper storage of embalming instruments. At a minimum, a chest or cabinet shall be used for the storage of embalming instruments;
(D) All types of blocks used in positioning a dead human body on an embalming table shall be made of nonabsorbent material. All wooden blocks shall be sealed and painted with enamel; and
(E) When not in use, embalming tables shall be cleaned, disinfected and covered with a sheet.

(9) Food and Beverages.

(A) There may be no direct opening between the preparation room and any room where food and beverages are prepared or served.

(10) A separate wash sink (separate from slop drain sink) shall be present or in close proximity to the preparation room for a personal hand wash facility and the disinfecting of embalming equipment. If the wash sink is not present in the preparation room, it shall be in a location close to the preparation room which is not accessible to the public and it shall be at a distance of no further than ten feet (10') from the door of the preparation room.

(11) Preparation rooms shall contain only the articles, instruments, and items that are necessary for the preparation, embalming, and final disposition of dead human bodies.

(12) Preparation rooms shall be secured with a functional lock so as to prevent entrance by unauthorized persons.

AUTHORITY: sections 192.020, 333.061, and 333.111.1, RSMo 2016. This rule originally filed as 4 CSR 120-2.090. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 24, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Aug. 13, 1984, effective Jan. 13, 1985. Amended: Filed June 2, 1986, effective Sept. 1, 1986. Amended: Filed Nov. 15, 1991, effective April 4, 1992. Amended: Filed May 26, 1993, effective Nov. 8, 1993. Amended: Filed May 16, 1995, effective Dec. 30, 1995. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.090, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed June 12, 2019, effective Dec. 30, 2019.*
**Original authority: 192.020, RSMo 1939, amended 1945, 1951, 2004, 2016; 333.061, RSMo 1965, amended 1981, 2001, 2011; and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

20 CSR 2120-2.100 Fees

PURPOSE: This rule establishes and fixes the various fees and charges authorized by Chapter 333, RSMo.

(1) The following fees hereby are established by the State Board of Embalmers and Funeral Directors:

(A) Embalmer Practicum Student Registration Fee..... $25
(B) Embalmer Application Fee- Apprentice, Reciprocity..... $100
(C) Embalmer Biennial Renewal Fee $75
(D) Funeral Director Application Fee—Apprentice, Education, Reciprocity, Limited $100
(E) Funeral Director and Funeral Director Limited Biennial Renewal Fee..... $75
(F) Reactivation Fee—Funeral Director, Funeral Director Limited, Embalmer, Establishment

(day 1 to day 365 after date license lapsed)..... $100
(G) Reactivation Fee—Funeral Director, Funeral Director Limited, Embalmer, Establishment
(day 366 to day 730 after date license lapsed)..... $200
(H) Inactive Renewal Fee- Embalmer, Funeral Director,
Funeral Director Limited, and Preneed Agent $25
(I) Establishment Application Fee $250
(J) Amended Establishment Application Fee $25
(K) Establishment Biennial Renewal Fee $200
(L) Reciprocity Certification Fee $10
(M) Duplicate Wallhanging Fee $10
(N) Collection Fee for Bad Checks $25
(O) Law Book Requests $5
(P) Background Check Fee (amount determined by the Missouri State Highway Patrol)
(Q) Provider License Application Fee (if no Funeral Establishment license)..... $200
(R) Provider License Application Fee (if also Funeral Establishment license) $100
(S) Provider Annual Renewal Fee $0
(T) Provider Delinquent Renewal Fee (day 1 to day 365 after date license lapsed) $100
(U) Provider Delinquent Renewal Fee (day 366 to day 730 after date license lapsed)..... $200
(V) Seller License Application Fee..... $200
(W) Seller Annual Renewal Fee $150
(X) Seller Delinquent Renewal Fee (day 1 to day 365 after date license lapsed) $200
(Y) Seller Delinquent Renewal Fee (day 366 to day 730 after date license lapsed) $400
(Z) Preneed Agent Registration Fee..... $40
(AA) Preneed Agent Annual Registration Renewal Fee $40
(BB) Preneed Agent Delinquent Renewal Fee (day 1 to day 365 after date license lapsed) $50
(CC) Preneed Agent Delinquent Renewal Fee (day 366 to day 730 after date license lapsed)..... $100
(DD) Seller per Contract Annual Reporting Fee
(for contracts executed on or after September 1, 2015)..... $25
(EE) Amended Provider Application Fee $25
(FF) Amended Seller Application Fee..... $25

(2) All fees are nonrefundable.

AUTHORITY: sections 333.111.1 and 333.340, RSMo 2016. This rule originally filed as 4 CSR 120-2.100. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. Emergency amendment filed April 7, 1982, effective April 17, 1982, expired Aug. 14, 1982. Amended: Filed April 13, 1982, effective July 11, 1982. Amended: Filed June 9, 1982, effective Sept. 12, 1982. Amended: Filed Aug. 9, 1982, effective Nov. 11, 1982. Amended: Filed Jan. 13, 1984, effective April 12, 1984. Amended: Filed Aug. 9, 1984, effective Jan. 13, 1985. Amended: Filed Feb. 7, 1985, effective May 11, 1985. Amended: Filed Sept. 12, 1985, effective Dec. 26, 1985. Amended: Filed Oct. 3, 1986, effective Jan. 12, 1987. Amended: Filed Dec. 2, 1986, effective March 12, 1987. Amended: Filed March 2, 1987, effective May 25, 1987. Amended: Filed March 16, 1988, effective July 28, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Dec. 2, 1988, effective March 11, 1989. Amended: Filed July 17, 1989, effective Oct. 12, 1989. Amended: Filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed March 12, 1991, effective Aug. 30, 1991. Amended: Filed Oct. 16, 1991, effective May 14, 1992. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed June 9, 1995, effective Dec. 30, 1995. Rescinded and readopted: Filed April 16, 1996, effective Nov. 30, 1996. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed Sept. 8, 1998, effective Jan. 30, 1999. Amended: Filed March 24, 1999, effective Oct. 30, 1999. Amended: Filed July 26, 1999, effective Jan. 30, 2000. Amended: Filed Dec. 30, 1999, effective June 30, 2000. Amended: Filed Aug. 18, 2000, effective Feb. 28, 2001. Amended: Filed April 6, 2001, effective Oct. 30, 2001. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.100, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Emergency amendment filed Sept. 24, 2009, effective Oct. 4, 2009, expired April 1, 2010. Amended: Filed Sept. 24, 2009, effective April 30, 2010. Emergency amendment filed July 26, 2010, effective Aug. 5, 2010, expired Feb. 24, 2011. Amended: filed July 26, 2010, effective Jan. 30, 2011. Emergency amendment filed Aug. 11, 2015, effective Aug. 21, 2015, expired Feb. 25, 2016. Amended: Filed Aug. 11, 2015, effective Jan. 30, 2016. Amended: Filed Nov. 10, 2016, effective May 30, 2017. Amended: Filed July 6, 2020, effective Jan. 30, 2021. Amended: Filed June 1, 2021, effective*

Nov. 30, 2021.
**Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995, and 333.340, RSMo 2009.*

20 CSR 2120-2.110 Public Complaint Handling and Disposition Procedure

PURPOSE: This rule establishes a procedure for the receipt, handling and disposition of public complaints by the board, pursuant to the mandate of section 4.16(6) of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo.

(1) The State Board of Embalmers and Funeral Directors shall receive and process each complaint made against any licensee, permit holder, registrant of the board or unlicensed individual or entity, which complaint alleges certain acts or practices which may constitute one (1) or more violations of the provisions of Chapter 333, RSMo. Any member of the public or the profession, or any federal, state or local officials may make and file a complaint with the board. Complaints shall be received from sources outside Missouri and processed in the same manner as those originating within Missouri. No member of the State Board of Embalmers and Funeral Directors shall file a complaint with this board while s/he holds that office, unless that member excuses him/herself from further board deliberations or activity concerning the matters alleged within that complaint. The executive director or any staff member of the board may file a complaint pursuant to this rule in the same manner as any member of the public.

(2) Complaints should be mailed or delivered to the following address: Executive Director, State Board of Embalmers and Funeral Directors, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423. However, actual receipt of the complaint by the board at its administrative offices in any manner shall be sufficient. Complaint may be made based upon personal knowledge, or upon information and belief, reciting information received from other sources.

(3) All complaints shall be made in writing and shall fully identify the complainant by name and address. Complaints shall be made on forms provided by the board and available upon request. Oral or telephone communications will not be considered or processed as complaints, but the person making these communications will be provided with a complaint form and requested to complete it and return it to the board in written form. Any member of the administrative staff of the board or any member of the board may make and file a complaint based upon information and belief, in reliance upon oral, telephone or written communications received by the board, unless those communications are believed by that staff member to be false.

(4) Each complaint received under this rule shall be logged in a book and/or database maintained by the board for that purpose. Complaints shall be logged in consecutive order as received. The logbook and/or database shall contain a record of each complainant's name and address; the name and address of the subject(s) of the complaint; the date each complaint is received by the board; a brief statement of the acts complained of, including the name of any person injured or victimized by the alleged acts or practices; a notation whether the complaint resulted in its dismissal by the board or informal charges being filed with the Administrative Hearing Commission; and the ultimate disposition of the complaint. This logbook and/or database shall be a closed record of the board.

(5) Each complaint received under this rule shall be acknowledged in writing. The acknowledgment shall state that the complaint is being referred to the board for consideration at its next regularly scheduled meeting. The complainant shall be informed as to whether the complaint is being investigated, and later, as to whether the complaint has been dismissed by the board, or is being referred to legal counsel for filing with the Administrative Hearing Commission. The complainant shall be notified of the ultimate disposition of the complaint, excluding judicial appeals and shall be provided with copies of the decisions (if any) of the Administrative Hearing Commission and the board at that time. Provided, that the provisions of this section shall not apply to complaints filed by staff members of the board based on information and belief, acting in reliance on third-party information received by the board.

(6) The chairman of the board, from time-to-time and as s/he deems necessary, may instruct the board inspector/investigator to investigate any complaint before the complaint has been considered at a regularly scheduled board meeting. The inspector/investigator shall provide a report of any actions taken to the board at its next regularly scheduled meeting.

(7) Both the complaint and any information obtained as a result of the investigation shall be considered a closed record and shall not be available for inspection by the general public. However, a copy of the complaint and any attachments shall be provided to any licensee who is the subject of that complaint, or his/her legal

counsel, upon written request to the board.

(8) This rule shall not be deemed to limit the board's authority to file a complaint with the Administrative Hearing Commission charging a licensee of the board with any actionable conduct or violation, whether or not the complaint exceeds the scope of the acts charged in a preliminary public complaint filed with the board, and whether or not any public complaint has been filed with the board.

(9) The board interprets this rule, which is required by law, to exist for the benefit of those members of the public who submit complaints to the board and for those persons or entities within the legislative and executive branches of government having supervisory or other responsibilities or control over the professional licensing boards. This rule is not deemed to protect, or inure to the benefit of, those licensees or other persons against whom the board has instituted or may institute administrative or judicial proceeding concerning possible violations of the provisions of Chapter 333, RSMo.

AUTHORITY: sections 333.111, RSMo 2000 and 620.010.15(6), RSMo Supp. 2003. This rule originally filed as 4 CSR 120-2.110. Original rule filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.110, effective Aug. 28, 2006.*
**Original authority: 333.111, RSMo 1965, amended 1981, 1993 and 620.010, 1973 amended 1981, 1983, 1986, 1989, 1990, 1993, 1994, 1995, 1999, 2001.*

20 CSR 2120-2.115 Procedures for Handling Complaints Against Board Members

PURPOSE: This rule establishes a procedure for the receipt, handling and disposition of complaints filed against members of the board.

(1) Complaints against members of the board will be handled in the same manner as complaints against other licensees with minor variations specifically described in this rule.

(2) When a complaint against a board member is received by the staff, the staff shall take steps to make sure that the complaint is on the proper form(s) (that is, the Uniform Complaint Form). Once the complaint is received in the proper form, the complaint will be mailed to all members of the board except the member who is the subject of the complaint. The member who is the subject of the complaint will automatically receive a summary of the complaint and will receive all agendas or other notices pertaining to when and where the complaint will be discussed. If the member who is the subject of the complaint requests additional information in writing, that information will be provided by the staff in consultation with the chairman (or vice-chairman, if the chairman is the subject of the complaint). In no event will the member who is the subject of the complaint be given information by the board or its staff which would reveal the name of the complainant, unless the member would have access if s/he were not a member of the board. If the board member learns the complainant's identity from the complainant, other board members and the staff subsequently may include the complainant's name in communication with the board member.

(3) At the meeting when the complaint is discussed, the board member who is the subject of the complaint shall not be present during discussion of the complaint unless by vote or consensus the remaining board members request the presence of the board member in question. The board member shall not participate in discussion of the complaint as a member of the board but shall participate in the same manner as any other licensee who is invited to appear before the board to discuss a complaint. The board member may be asked to leave the room at any time during the discussion. The board member shall leave the room prior to any vote which will determine the manner in which the complaint will be handled.

(4) After the remaining board members have completed voting on all action to be taken as a result of the complaint, the board member may return to the room. At that time, the board chairman (or vice-chairman, if the chairman is the subject of the complaint) will inform the board member of the action which the board has decided to take.

(5) If the board decides to have the complaint investigated, a copy of the investigative report will be mailed to all board members except the board member who is the subject of the complaint. The board member who is the subject of the complaint will be sent a copy of any notice or agenda which indicates that the investigative report will be discussed. The meeting at which the investigative report is discussed will follow the same procedures outlined in section (4) for the meeting at which the complaint is discussed.

(6) If the board chooses to take no further action as a result of the complaint or the investigative report, the

board member will be informed of this decision. The board member will not subsequently have access to the investigative report or the complaint unless the member would have that access if s/he were not a member of the board.

(7) If the board chooses to refer the case to the attorney general's office, the board member will be informed of that fact. The board member will not be allowed access to the complaint or investigative report by virtue of his/her status as a board member. If the attorney assigned to the case chooses to release these documents to the board member or if the attorney is required for legal reasons to release these documents to the board member, the board member will be permitted access to the documents released by the attorney.

(8) The board member will not be present during any discussion of the case once the board has voted to refer the case to the attorney general's office. The exception to this rule will be only for prearranged formal meetings to discuss settlement, if the attorneys for both parties agree. The other board members will not discuss the case with the board member who is the subject of the case except at the formal meeting.

(9) The board member has the right to be represented by counsel at all formal or informal proceedings. Admissions made by the board member at or outside a board meeting may be used against the board member at hearing.

(10) The board member shall not have access to that portion of the minutes of any meeting which reflects discussion, motions or votes related to the complaint or case against the board member. These minutes shall be kept separately as special closed minutes and shall not be shared with the board member by the other board members or the staff unless the board member would be entitled to access to the minutes if s/he were not a board member.

(11) The provisions of sections (1)–(10) of this rule shall apply to any complaint against a Missouri licensed funeral establishment at which a member of the board is employed or with which a member of the board is associated.

(12) The provisions of sections (1)–(10) of this rule shall apply to any complaint against any preneed registrant by which a member of the board is employed or with which a member of the board is associated, including, but not limited to, a complaint against a preneed seller who sells for a Missouri licensed funeral establishment with which a member of the board is associated. A board member will be considered to be employed by or associated with a preneed registrant if the board member receives a salary or wages from the preneed registrant or if a board member has an ownership interest in a preneed registrant. However, these procedures shall not apply to a board member who only receives commissions from the preneed registrant. Each member of the board shall keep the board's executive director notified of the preneed registrants by which the board member is employed and with which the board member is associated.

(13) The remaining members of the board may vote to exclude a member from participating in any matter based upon a conflict of interest. The vote must be a majority vote of all of the members present and voting except the member who is the subject of the vote. Participation shall include, but not be limited to, receipt of materials, presence during discussion and voting.

AUTHORITY: section 333.111, RSMo 2000. This rule originally filed as 4 CSR 120-2.115. Original rule filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed April 16, 1990, effective Nov. 30, 1990. Amended: Filed April 2, 1992, effective Sept. 6, 1992. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.115, effective Aug. 28, 2006.*
**Original authority: 333.111, RSMo 1965, amended 1981, 1993.*

20 CSR 2120-2.120 Public Records

PURPOSE: This rule establishes standards of compliance with Chapter 610, RSMo, as it relates to public records of the State Board of Embalmers and Funeral Directors.

(1) All public records of the State Board of Embalmers and Funeral Directors shall be open for inspection and copying by the general public at the board's office during normal business hours, holidays excepted, except for those records closed pursuant to section 610.021, RSMo. All public meetings of the State Board of Embalmers and Funeral Directors, not closed pursuant to the provisions of section 610.021, RSMo, will be open to the public.

(2) The board hereby closes all individually identifiable personnel records, performance ratings, or records pertaining to employees or applicants for employment of the board, except that this exemption shall not apply

to the names, positions, salaries, and lengths of service of officers and employees of the board once they are employed.

(3) The State Board of Embalmers and Funeral Directors establishes the executive director of the board as the custodian of its records as required by section 610.023, RSMo. The executive director is responsible for maintaining the board's records and for responding to requests for access to public records and may appoint deputy custodians as necessary for the efficient operation of the board.

(4) When the custodian believes that requested access is not permitted under Chapter 610, RSMo, the custodian shall inform the requesting party that compliance cannot be made, specifying what sections of Chapter 610, RSMo, require that the record remain closed. Correspondence or documentation of the denial shall be copied to the board's general counsel. The custodian also shall inform the requesting party that he/she may appeal directly to the board for access to the records requested. The appeal and all pertinent information shall be placed on the agenda for the board's next regularly scheduled meeting. If the board reverses the decision of the custodian, the board shall direct the custodian to advise the requesting party and supply access to the information during regular business hours at the requesting party's convenience.

(5) The custodian shall maintain a file that will contain copies of all written requests for access to records and responses to these requests. The requests shall be maintained on file with the board for a period of one (1) year and will be maintained as a public record of the board open for inspection by any member of the general public during regular business hours.

(6) Whenever a request for inspection of public records is made and the individual inspecting the records requests copies of the records, the board may charge a reasonable fee for the cost of inspecting and copying the records as follows:

(A) A fee for copying public records shall not exceed the actual cost of the document search and duplication; and

(B) The board may require payment for these fees prior to making the copies.

AUTHORITY: section 333.111, RSMo 2016, section 620.010.14, RSMo Supp. 2019, and sections 610.010–610.035, RSMo 2016 and RSMo Supp. 2019. This rule originally filed as 4 CSR 120-2.120. Original rule filed Nov. 1, 2001, effective April 30, 2002. Moved to 20 CSR 2120-2.120, effective Aug. 28, 2006. Amended: Filed June 12, 2019, effective Dec. 30, 2019.*
**Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995; 610.010–610.035, see Missouri Revised Statutes; and 620.010, RSMo 1973, amended 1981, 1983, 1986, 1989, 1990, 1993, 1994, 1995, 1999, 2001, 2007, 2008, 2010, 2014, 2019.*

20 CSR 2120-2.130 Final Disposition as Defined in Chapter 193

PURPOSE: This rule explains that the use of the term "final disposition" in Chapter 333, RSMo, and sections 436.400 to 436.525, RSMo, relating to preneed, shall be consistent with the definition of the term in Chapter 193, RSMo.

(1) For purposes of Chapter 333, RSMo, and sections 436.400 to 436.525, RSMo, relating to preneed, final disposition is defined in accordance with the definition contained in section 193.015(3), RSMo.

(2) Use of the term final disposition in Chapter 333, RSMo, and sections 436.400 to 436.525, RSMo, relating to preneed, is consistent with its use in Chapter 193, RSMo.

AUTHORITY: sections 333.011(10), 333.340, 436.405, and 436.520, RSMo 2016, and section 193.015, RSMo Supp. 2019. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Amended: Filed June 12, 2019, effective Dec. 30, 2019.*
**Original authority: 193.015, RSMo 1984, amended 2005, 2015, 2019; 333.011, RSMo 1965, amended 2007, 2008, 2009, 2011; 333.340, RSMo 2009; 436.405, RSMo 2009, amended 2011; and 436.520, RSMo 2009.*

20 CSR 2120-2.140 Financial Welfare Cause for Injunction

PURPOSE: This rule states that serious danger to an individual's financial welfare is cause for the State Board of Embalmers and Funeral Directors to seek an injunction pursuant to section 333.335.1(2), RSMo.

(1) For purposes of section 333.335, RSMo, the Missouri State Board of Embalmers and Funeral Directors shall be entitled to seek injunctive relief against any person from engaging in any business or practice authorized by a registration or authority, permit, or license issued under this chapter in a manner that presents a

substantial probability of serious danger to the health, safety, or welfare of any resident of this state or client or customer of the licensee or registrant.

(2) For purposes of section 333.335, RSMo, serious danger to the welfare of any resident or client or customer shall include, but is not limited to, the financial welfare of the resident, client, or customer.

AUTHORITY: sections 333.335, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. *Original authority: 333.335, RSMo 2009; 333.340, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-2.150 Payment Not Determining Factor of Practice of Funeral Directing

PURPOSE: This rule explains that the receipt of payment for providing funeral services is not the determining factor in identifying the practice of funeral directing.

(1) In determining whether a person, pursuant to section 333.011(6), RSMo, is engaging in the practice of funeral directing pursuant to section 333.011(8), RSMo, the board shall consider all activities listed in section 333.011(8), RSMo.

(2) Receipt of payment by any person for any or all services provided pursuant to this chapter or Chapter 436, RSMo, shall not be the determining factor in determining whether the person is engaging in the practice of funeral directing.

AUTHORITY: sections 333.011(8), 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. *Original authority: 333.011, RSMo 1965, amended 2007, 2008, 2009; 333.340, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-2.200 Military Training to Meet Requirements for Licensure

PURPOSE: This rule requires the board to accept evidence of military education, training, or service to be applied toward the requirements for licensure.

(1) Any applicant for licensure may, as part of the evidence of meeting the requisite educational and/or training requirements for licensure, submit evidence of military experience as a member of the military.

(2) The board shall review the evidence submitted and, if appropriate, make additional inquiry of the applicant to determine the scope and duties of the military experience to determine whether the military experience counts towards the qualifications for licensure.

(3) In its review of the military experience, the board shall evaluate the content and nature of the military experience to determine whether that military experience counts towards the education, training, or service requirements for licensure. The board shall construe liberally the military experience in determining whether it will count towards the education, training, or service requirements for licensure.

(4) “Active duty” is full time duty in the active military service of the United States or the state of Missouri as defined in Section 101(a)(5), Title 10 of the U.S. Code and section 41.030, RSMo.

(5) “Military experience” is education, training, or service completed by an applicant while a member of the military.

(6) “Military” is the United States armed forces or reserves, the national guard of any state, the military reserves of any state, or the naval militia of any state.

AUTHORITY: sections 324.007, 333.111, and 333.340, RSMo 2016. Original rule filed March 9, 2020, effective Sept. 30, 2020.*
**Original authority: 324.007, RSMo 2013; 333.111, RSMo 1965, amended 1981, 1993, 1995; and 333.340, RSMo 2009.*

20 CSR 2120-2.220 Renewal of Licenses for Military Members

PURPOSE: This rule sets forth the procedure for renewal of a license held by a licensee on active military duty and for discipline of a license held by a licensee on active military duty.

(1) Any licensee who is a member of the United States Armed Forces or any military or militia of the state of Missouri, as defined in section 41.030, RSMo, shall be exempt from the requirement to renew his or her license

if—

(A) The licensee is on active duty, meaning full time duty in the active military service of the United States as defined in Section 101(a)(5), Title 10 of the U.S. Code or of the active military forces of Missouri under section 41.030, RSMo;

(B) At the time of activation, the licensee held a current and active license with the board in Missouri and was licensed or certified to engage in his or her profession in this state; and

(C) The licensee complies with the provisions of this rule to notify the board of the active military duty.

(2) While a licensee meeting the requirements of this rule is on active duty, as set forth above, each license of the licensee will be renewed without payment of renewal fees or any other act required for renewal while the licensee is on active military duty and up to two (2) years from the date the licensee ceases active military duty, if the following criteria are met:

(A) The licensee notifies the board in writing on a form provided by the board or by other written communication accepted by the board as a Notice of Active Military Duty and requests license renewal;

(B) This written Notice of Active Military Duty shall be signed and dated by the licensee and contain the name, address, and license number of the licensee, the date of activation, and be accompanied by a copy of the licensee's active duty orders or other evidence sufficient for the board to determine the dates of active service by licensee;

(C) If the licensee requests waiver of any continuing education requirement, this request may be made at the time the Notice of Active Military Duty is filed. The Notice of Active Military Duty may be filed with the board at any time up to one hundred eighty (180) days from the date the licensee ceases active military duty;

(D) If any of licensee's licenses have lapsed for non-renewal during this period before the Notice of Active Military Duty has been filed, all licenses will be reinstated upon the filing of the Notice of Active Military Duty with no additional requirements for reinstatement. All such reinstatements are retroactive to the last renewal date after the licensee went on active duty and the license is deemed as having been active from that date until the license is reinstated;

(E) If licensee files the Notice of Active Military Duty prior to a license renewal date, the board will renew all licenses, without any further requirement, until either the licensee notifies the board that active military duty has ceased or a license has not been renewed for a period of one hundred eighty (180) days from the date the active military duty ceased. The licensee shall have the duty to notify the board when his or her active military duty ceases within one hundred eighty (180) days from the date the active duty ceases. The board will deem licensee's license current and active until the end of the one hundred eighty (180) days and after that time, the licensee's license shall be due for renewal at the next license regular renewal date; and

(F) The licensee on active military duty shall not be required to pay any license renewal fees during the period of active military duty and up to one hundred eighty (180) days after the end of the active military duty. If a license lapses at any time during active military duty, that license will be reinstated with no further requirements, other than the filing of the Notice of Active Military Service.

(3) If, at the time of activation, licensee's license was subject to discipline, the disciplinary period shall be stayed during the time of licensee's active duty military service and reinstated at the time the license is reinstated. However, if the conditions of the discipline require the licensee to take any action or meet any obligations, licensee shall have at least one hundred eighty (180) days after the end of active military duty to take those actions or fulfill those obligations.

(4) If during the time licensee is on active military duty, the board desires to pursue any disciplinary or administrative action against any license of the licensee, the board shall stay any such action until at least sixty (60) days after the end of the active military duty.

(5) Any licensee who holds a current license and is a member of any United States or state of Missouri military, including any reserve members and any member of the United States Public Health Service, who is engaged in the active duty in the military service of the United States or the state of Missouri and who is engaged in the performance of active duty in the military service of the United States in a military conflict in which reserve components have been called to active duty for any period of more than thirty (30) days and who have had any license lapse while performing this military service, may renew/reinstate such license, without penalty by—

(A) Filing with the board a Notice of Active Military Duty on a form provided by the board or by written communication accepted by the board that is signed and dated by the licensee and contains the licensee's name, address, the type of license and license number of the licensee, the date of active duty activation, and is

accompanied by a copy of the licensee's active duty orders or other evidence sufficient for the board to determine the dates of active military duty by licensee; and

(B) Such Notice of Active Military Duty shall be filed with the board along with the request for license reinstatement no later than sixty (60) days after the end of active military duty.

(6) Upon filing the Notice of Active Military Duty, the board will reinstate licensee's license with no further requirements, retroactive to the last renewal.

AUTHORITY: sections 41.950, 192.360, 333.081, 333.111, and 333.340, RSMo 2016. Original rule filed July 6, 2020, effective Jan. 30, 2021.*

**Original authority: 41.950, RSMo 1991, amended 2007, 2009, 2011; 192.360, RSMo 2013; 333.081, RSMo 1965, amended 1981, 2001; 333.111, RSMo 1965, amended 1981, 1993, 1995; and 333.340, RSMo 2009.*

Chapter 3
Preneed

Title 20-DEPARTMENT OFCOMMERCE AND INSURANCE
Division 2120—State Board of Embalmers and Funeral Directors
Chapter 3—Preneed

20 CSR 2120-3.010 Preneed Sellers

PURPOSE: This rule outlines the provisions for the practice of preneed seller.

(1) Applications for a preneed seller license are to be made on the forms provided by the board and be accompanied by the applicable fees. At a minimum an applicant shall submit with the application—
(A) Evidence of being an individual resident of Missouri who is eighteen (18) years of age or older, or if a business entity, current registration of the entity name that reflects it is in good standing and, if applicable, current registration of fictitious name(s), both from the Missouri Secretary of State;
(B) Evidence if the applicant is a corporation, each officer, director, manager, or controlling shareholder, is eligible for licensure if they were applying for licensure as an individual;
(C) The name and address of a custodian of records responsible for maintaining the books and records of the seller relating to preneed contracts;
(D) The name and address of a trustee or, if applicable, the financial institution where any preneed trust or joint accounts will be maintained;
(E) The name and address of each insurance company that may be utilized for insurance funded preneed contracts;
(F) Have established, as grantor, a preneed trust, or an agreement to utilize a preneed trust with terms consistent with sections 436.400 to 436.510, RSMo. A trust shall not be required if the applicant certifies to the board that the seller will only sell insurance-funded or joint account-funded preneed contracts;
(G) The name, address, and license number of an individual designated to serve as manager in charge of the seller's business;
(H) The name(s), address(es), and license number(s) of each preneed agent who is authorized to sell, negotiate, or solicit preneed contracts on behalf of the seller;
(I) The name(s) and address(es) of each preneed provider with whom the licensee will have a contractual agreement to be designated as a preneed provider;
(J) A written consent authorizing the state board to inspect or order an investigation, examination, or audit of the seller's books and records which contain information concerning preneed contracts sold by or on behalf of the seller;
(K) A certificate of no tax due from the Missouri Department of Revenue, if applicable; and
(L) A Missouri Highway Patrol fee for each person that is an officer or who has at least a ten percent (10%) interest in the business.
(2) An applicant that does not meet the requirements of the board for licensure within ninety (90) days from the date the application is filed with the board and still desires to seek licensure shall file a new application and pay applicable fees.
(3) If the manager in charge changes, the seller shall provide written notice to the board within thirty (30) days of the change.
(4) The seller license issued by the board is effective for a specific name of a person or entity authorized to conduct business in Missouri and may include "doing business as" name(s). Whenever the ownership or name of the Missouri licensed seller changes, a new license shall be obtained.

(A) If a change of ownership is caused by a change in the majority of owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new seller license. However, a new application for a seller license form shall be filed as an amended application within thirty (30) days prior to the change of ownership.
(B) If a corporation owns a Missouri licensed seller, it is not necessary to obtain a new seller license or to file an amended application for a seller license if the owners of the stock change.
(C) However, as a separate person, if a corporation begins ownership of a Missouri licensed seller or ceases ownership of a Missouri licensed seller, a new seller license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.
(5) Except as otherwise provided in sections 436.400 to 436.510, RSMo, and any rules validly promulgated pursuant to those sections—
(A) The seller shall be obligated to collect and properly deposit and disburse all payments made by, or on behalf of, a purchaser of a preneed contract; and
(B) A purchaser may make payments on any preneed contract by making the payment directly to the trustee, the insurance company, or the financial institution where the joint account is held, as applicable, in lieu of paying the seller.

AUTHORITY: sections 333.320, 333.340, 436.415, and 436.520, RSMo 2016. This rule originally filed as 4 CSR 120-3.010. Original rule filed Jan. 7, 1983, effective June 11, 1983. Moved to 20 CSR 2120-3.010, effective Aug. 28, 2006. Rescinded and readopted: Filed March 9, 2020, effective Sept. 30, 2020.*
*Original authority: 333.320, RSMo 2009; 333.340, RSMo 2009; 436.415, RSMo 2009; and 436.520, RSMo 2009.

20 CSR 2120-3.020 Preneed Providers

PURPOSE: This rule outlines the provisions for the practice of preneed provider.

(1) Applications for licensure as preneed providers are to be made on the forms provided by the board and be accompanied by the applicable fees. At a minimum an applicant shall submit with the application—
(A) Evidence, if a business entity, current registration of the entity name that reflects it is in good standing and, if applicable, current registration of fictitious name(s), both from the Missouri Secretary of State;
(B) Evidence if applicant is a corporation, each officer, director, manager, or controlling shareholder is eligible for licensure if they were applying for licensure as an individual;
(C) The name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;
(D) The name(s) and address(es) of each seller authorized by the provider to sell preneed contracts in which the provider is designated or obligated as the provider;
(E) A written consent authorizing the state board to inspect or order an investigation, examination, or audit of the provider's books and records which contain information concerning preneed contracts sold for or on behalf of a seller or in which the applicant is named as a provider;
(F) A certificate of no tax due from the Missouri Department of Revenue, if applicable; and
(G) A Missouri Highway Patrol fee for each person that is an officer or who has at least a ten percent (10%) interest in the business.
(2) An applicant that does not meet the requirements of the board for licensure within ninety (90) days from the date the application is filed with the board and still desires to seek licensure shall file a new application and pay applicable fees.

(3) The provider license issued by the board is effective for a specific name of a person or entity authorized to conduct business in Missouri and may include "doing business as" name(s). Whenever the ownership or name of the Missouri licensed provider changed, a new license shall be obtained.
(A) If a change of ownership is caused by a change in the majority of owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new provider license. However, a new application for a provider license form shall be filed as an amended application within thirty (30) days prior to change of ownership.
(B) If a corporation owns a Missouri licensed provider, it is not necessary to obtain a new provider license or to file an amended application for a provider license if the owners of the stock change.
(C) However, as a separate person, if a corporation begins ownership of a Missouri licensed provider or ceases ownership of a Missouri licensed provider, a new provider license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.
(4) As defined by section 333.011(10), RSMo, the provider of services under any preneed contract pursuant to sections 436.400 to 436.525, RSMo, shall include any licensed funeral establishment that has agreed to undertake the obligations of a preneed contract pursuant to sections 436.400 to 436.525, RSMo.
(5) Any provider who is a licensed funeral establishment who has agreed to undertake the obligations of a preneed contract pursuant to sections 436.400 to 436.525, RSMo, must meet all requirements of both a licensed funeral establishment and a preneed provider pursuant to Chapter 333, RSMo, and sections 436.400 to 436.525, RSMo.
(6) After initial application, if there is a change in seller affiliation, the provider shall provide written notice to the board, pursuant to section 436.420.3, RSMo, that the provider has authorized a new seller to designate the provider on the seller's preneed contracts. This notice shall be provided to the board within fifteen (15) days after the provider authorizes the seller to act, and the notice shall contain, at least:
(A) Name and address of the provider;
(B) License number of the provider;
(C) Name, address, and license number of the seller; and
(D) Effective date of the authorization or agreement.

AUTHORITY: sections 333.011(10), 333.111.1, 333.315, 333.340, 436.420, and 436.520, RSMo 2016.* This rule originally filed as 4 CSR 120-3.020. Original rule filed Jan. 7, 1983, effective June 11, 1983. Moved to 20 CSR 2120-3.020, effective Aug. 28, 2006. Rescinded and readopted: Filed March 9, 2020, effective Sept. 30, 2020.
*Original authority: 333.011, RSMo 1965, amended 2007, 2008, 2009; 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.315, RSMo 2009; 333.340, RSMo 2009; 436.420, RSMo 2009; and 436.520, RSMo 2009.

20 CSR 2120-3.030 Notification of Intent to Sell Assets or Cease Doing Business (Seller or Provider)

PURPOSE: This rule outlines the procedures for preneed sellers and preneed providers to notify the board when selling or disposing of all or a majority of its business assets or its stock, or ceasing to do business.

(1) Notification of intent to sell assets or cease doing business must be made on the forms provided by the board.
(2) As part of the notification, each licensed seller must inform the board of the actions it has taken or will take to ensure that the assets of the seller will be set aside and used to serve outstanding preneed

contracts sold by the seller and each licensed provider must inform the board of the actions it has taken or will take to ensure that the provider's obligations under preneed contracts will be satisfied.
(3) If a seller ceases business, the seller shall assign all active preneed contracts to another licensed seller and transfer the funds held either in trust or in joint accounts to that licensed seller. In that assignment, the receiving seller shall agree to assume all obligations under the preneed contracts or in lieu of such complete assumption, the assignment shall set forth the obligations that the new seller is assuming.

AUTHORITY: sections 333.111.1, 436.490, and 436.500, RSMo 2016. This rule originally filed as 4 CSR 120-3.030. Original rule filed Jan. 7, 1983, effective June 11, 1983. Moved to 20 CSR 2120-3.030, effective Aug. 28, 2006. Amended: Filed June 12, 2019, effective Dec. 30, 2019.*
**Original authority: 333.111.1, RSMo 1965, amended 1981, 1993, 1995; 436.490, RSMo 2009; and 436.500, RSMo 2009.*

20 CSR 2120-3.105 Filing of Annual Reports and License Renewal

PURPOSE: This rule prescribes the board's process for the filing of annual reports and license renewal under Chapter 333 and sections 436.400 to 436.525, RSMo.

(1) The annual renewal date for licensed preneed sellers and preneed providers is November 1. The annual renewal date for registered preneed agents is December 1.
(2) For sellers—
(A) Each preneed seller shall file a completed renewal and all applicable fees on or before October 31 each year. If the license is not renewed by this date the license shall expire;
(B) Each preneed seller shall file a completed annual report before October 31 each year. If the report is not filed the license shall be automatically suspended until the time the completed annual report is filed and all applicable fees have been paid;
(C) The seller's report must contain the following, if applicable:
1. The number of preneed contracts sold in the reporting year (including those written that were cancelled, fulfilled, transferred, or serviced in the same reporting year);
2. If a consumer has more than one (1) preneed contract with different preneed sellers the contract should be identified on the annual report and the per contract fee is required for each preneed contract; and
3. If a consumer has one (1) preneed contract with multiple funding sources the contract should be identified on the annual report and one (1) per contract fee is to be submitted;
(D) For the seller annual report, if the seller is unable to validate the status and face value of the insurance policy and unable to obtain the certification from the insurance company, the following information will meet the requirements of section 436.460.4, RSMo, for the reporting requirements for insurance funded preneed contracts:
1. The name and address of the company issuing the policy or annuity funding the preneed;
2. The amount of the policy or balance on account at the time the preneed contract was sold; and
3. An attestation from the seller that since these accounts are funded by insurance, the seller has no ability to confirm the existence or amount of the policies or accounts;
(E) If the license is suspended the applicant must file the annual report and renewal and pay the delinquent fee established by the board before the license is issued; and

(F) If the license is not current the licensee shall not act as a preneed seller in any capacity, such as maintaining an active trust account or paying providers for fulfilled preneed contracts.
(3) For providers—
(A) Each preneed provider shall file a completed annual report on or before October 31 each year. If the license is not renewed by this date the license shall expire;
(B) If the license is not current the licensee shall not act as a preneed provider in any capacity, such as servicing preneed contracts or being named as a provider on such.
(4) For agents—
(A) Each preneed agent shall file a completed renewal and pay the applicable fees on or before November 30 each year. If the registration is not renewed by this date the license shall expire.
(5) The holders of expired Missouri licenses for preneed providers, preneed sellers, and registrations for agents which are not renewed will be notified that their licenses or registrations have expired. The holder of an expired license or registration may reinstate the license or registration within two (2) years of the renewal date after the proper forms have been completed and applicable fees have been paid. Any license or registration that has not been renewed within two (2) years shall be void.

AUTHORITY: ***sections 333.315, 333.320, 333.325, 333.340, 436.460, and 436.520, RSMo 2016****.* Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, expired April 1, 2010. Original rule filed Sept. 24, 2009, effective April 30, 2010. Rescinded and readopted: Filed July 6, 2020, effective Jan. 30, 2021.*
*Original authority: 333.315, RSMo 2009; 333.320, RSMo 2009; 333.325, RSMo 2009; 333.340, RSMo 2009; 436.460, RSMo 2009; and 436.520, RSMo 2009.

20 CSR 2120-3.210 Requirements for a Preneed Contract Joint Account

PURPOSE: This rule provides standards for preneed sellers regarding the management of preneed contract funds that are to be placed and held in joint accounts.

(1) Effective January 1, 2025, any funds received for a joint-account funded preneed contract shall be deposited with a financial institution authorized to do business in Missouri. The account shall be set up either—
(A) In the joint names and under the joint control of the seller and purchaser, beneficiary, or party holding power of attorney over the beneficiary's estate. Funds shall only be withdrawn or paid from the account upon the signatures of both the seller and the purchaser or under a pay-on-death designation or as required to pay reasonable expenses of administering the account; or
(B) In an account titled in the beneficiary's name and payable on the beneficiary's death to the seller.
(2) Sellers shall perform necessary steps to ensure all existing accounts for joint-account preneed contracts meet compliance requirements prior to September 1, 2025. Accounts set up in the name of the seller with the beneficiary/purchaser name in a memo line (e.g., Seller Name FBO Purchaser Name) are not compliant with the provisions of Chapter 436, RSMo, and are prohibited.
(3) The seller shall maintain proper documentation of the action taken and provide the purchaser with notice of any changes made to the account. For any existing account which is not in compliance, the board may approve one (1) or more of the following actions to be taken by the seller:
(A) Switch the funding source for the contract to utilize trust or insurance funding. The seller must procure written authorization from the purchaser before switching to a new funding source per section 436.425.5, RSMo;
(B) Provide the purchaser the option to cancel the contract, if revocable. Purchaser and the seller must abide by the terms of section 436.456, RSMo; or

(C) Request approval from the board to waive specific requirements for, or otherwise grandfather, an account in existence prior to January 1, 2025, which may not meet the joint account requirements. Requests for waiver should be received by the board no later than September 1, 2025. The board will consider these requests on an individual basis. To be considered, the seller's license must be in good standing, not subject to probation, and the seller shall submit the following: 1. A written request for approval to be considered for grandfathering of existing accounts, including a detailed explanation why the seller is making the request; 2. A listing of all contracts the seller requests to have considered, detailing the contract number, contract date, beneficiary/purchaser name, financial institution, contract face value, and current account balance; 3. A detailed business and successor plan of the seller; and 4. A written acknowledgment that the seller may only withdraw funds from the account if— A. A death certificate is submitted to the financial institution; B. The purchaser exercises their right to cancel according to the terms of section 436.456, RSMo; or C. The seller exercises their right to cancel according to the terms of section 436.457, RSMo.
(4) Upon request of the board, the seller shall provide the board with any documents requested to verify the account. Any letter of attestation from the financial institution should also confirm the account meets the requirements stated.
(5) All funds received by the seller for a joint-account funded contract must be directly deposited into a joint-account within ten (10) days of receipt. Seller shall not deposit any funds received for a preneed contract into a general business account or holding account prior to the deposit into the joint account.
AUTHORITY: sections 436.455 and 436.520.1, RSMo 2016.* Original rule filed July 1, 2024, effective Jan. 30, 2025. *Original authority: 436.455, RSMo 2009, amended 2011, and 436.520, RSMo 2009

20 CSR 2120-3.405 Preneed Agents

PURPOSE: This rule outlines the provisions for the practice of preneed agent.

(1) Any individual who desires to be registered as a preneed agent shall—
(A) Make application with the board on the forms provided by the board and pay applicable fees;
(B) Provide the name, address, and license number of each preneed seller who has authorized the applicant to sell, negotiate, or solicit preneed contracts on their behalf; and
(C) Achieve a score of seventy-five (75) or greater on the Missouri Law examination.
(2) Any individual that is currently licensed by the board as a funeral director and desires to be registered as a preneed agent shall—
(A) Make application with the board on the forms provided by the board; and
(B) Provide the name, address, and license number of each preneed seller who has authorized the applicant to sell, negotiate, or solicit preneed contracts on their behalf.
(3) An applicant that does not meet the requirements of the board for registration within one (1) year after the application is filed with the board and still desires to seek licensure shall file a new application and pay applicable fees.
(4) If there is a change in a preneed seller that an agent is authorized to sell, negotiate, or solicit preneed contracts, the agent shall notify the board in writing and include the name, address, and license number of the new seller prior to the agent beginning to work on behalf of the seller.

(5) Any preneed agent registered by the board to sell a preneed contract for or on behalf of a seller must be the agent of a seller who is licensed to sell preneed contracts by the State Board of Embalmers and Funeral Directors.

AUTHORITY: sections 333.011(9), 333.320, 333.325.5, 333.340, and 436.520, RSMo 2016. Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, terminated Nov. 2, 2009. Emergency rule filed Oct. 23, 2009, effective Nov. 2, 2009, expired April 1, 2010. Original rule filed Sept. 24, 2009, effective April 30, 2010. Rescinded and readopted: Filed April 13, 2021, effective Oct. 30, 2021.*

*Original authority: 333.011, RSMo 1965, amended 2007, 2008, 2009; 333.320, RSMo 2009; 333.325, RSMo 2009; 333.340, RSMo 2009; and 436.520, RSMo 2009.

20 CSR 2120-3.505 Types of Financing; Other Financing Still Preneed

PURPOSE: This rule identifies the acceptable funding mechanisms for preneed contracts.

(1) Preneed contracts shall only be funded by:
(A) A preneed trust as defined by section 436.405.1(8), RSMo;
(B) An insurance policy or single premium annuity contract as defined by section 436.405.1(3), RSMo; or
(C) A joint account as defined by section 436.405.1(4), RSMo.
(2) Preneed contracts funded by any other mechanism shall be non-compliant with the requirements of sections 436.400 to 436.520, RSMo. All non-compliant preneed contracts shall still be subject to regulation by the board under sections 436.400 to 436.520, RSMo.

AUTHORITY: sections 333.340, 436.405, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*
*Original authority: 333.340, RSMo 2009; 436.405, RSMo 2009; and 436.520, RSMo 2009.

20 CSR 2120-3.525 Independent Financial Advisor is Agent of Trustee and Authorized External Investment Advisor

PURPOSE: This rule clarifies that an independent financial advisor is an agent of the trustee in a trust-funded preneed contract and sets forth the qualifications and duties of an authorized external investment advisor for a preneed trust.

(1) An independent financial advisor, as provided in section 436.440.6, RSMo, is an agent, as provided in section 436.440, RSMo, of the trustee.
(2) An authorized external investment advisor, as provided in section 436.445, RSMo, is an agent, as provided in section 436.440, RSMo, of the trustee.
(3) A preneed trust may utilize the services of an authorized external investment advisor as provided in sections 436.435, 436.440, and 436.445, RSMo.
(4) Any authorized external investment advisor utilized by a preneed trustee must have a current and active federal or Missouri registration as an investment advisor at all times when he or she serves as an investment advisor for a preneed trust.
(5) Any authorized external investment advisor shall exercise his or her duties in compliance with the provisions of applicable state and federal laws including compliance with his or her fiduciary duties including the duties of loyalty and of care.

(6) Except as provided in sections 436.400 to 436.525, RSMo, only a preneed trustee may retain the services of an authorized external investment advisor to assist the preneed trustee with the investment of preneed trust assets.
(7) If a preneed trustee utilizes the services of authorized external investment advisor, that relationship shall be memorialized in a written agreement that discloses the scope of duties and powers delegated, the compensation to be paid to the authorized external investment advisor, any relationship or contracts between the authorized external investment advisor and the seller, any relationship or contract between the authorized external investment advisor and any provider of any preneed contract for which funds are held in the seller's preneed trust, and any other provisions that the trustee deems necessary to meet its fiduciary duties.
(8) Any independent financial advisor, in place before August 28, 2009 in compliance with the provisions of section 436.440.6, RSMo, must be either a federally registered or Missouri registered independent qualified investment advisor at all times when acting as an investment advisor for a preneed trust and must meet all requirements required of an authorized external investment advisor.

AUTHORITY: sections 333.340, 436.440.6, 436.445, and 436.520, RSMo 2016. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Amended: Filed March 9, 2020, effective Sept. 30, 2020.*
*Original authority: 333.340, RSMo 2009; 436.440, RSMo 2009; 436.445, RSMo 2009, amended 2011; and 436.520, RSMo 2009.

20 CSR 2120-3.530 Confidentiality of Preneed Records Obtained by the Board through Financial Examination, Audit, or Investigation

PURPOSE: *The purpose of this rule is to ensure confidentiality of consumer records and confidential data of licensees and registrants.*

(1) Upon completion of any financial exam, audit, or investigation involving preneed records, the board members may be provided with a summary of the results of the exam, audit, or investigation and any such summary shall not include information made confidential per section 436.525, RSMo, unless such information is required for the board to evaluate whether the board should take further action.

(2) No individual member of the board shall be given access to review the work papers of the examiners, auditors, or investigator related to the examination, audit, or investigation of preneed records unless such access has been specifically approved by the board, as a body. Work papers shall include any records or information obtained from any licensee, registrant, or any other source that includes any information made confidential by section 436.525, RSMo. Work papers shall also include any compilation, spreadsheet, or other record prepared by the examiner, auditor, or investigator from information and records obtained from the licensee, registrant, or other source that contains information made confidential by section 436.525, RSMo. Work papers shall not include any document that would otherwise be an open record under Missouri law.

AUTHORITY: sections 333.111 and 436.525, RSMo 2016. Original rule filed Jan. 30, 2020, effective Aug. 30, 2020.*
*Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995 and 436.525, RSMo 2009.

20 CSR 2120-3.540 Financial Examination-Audit Process and Procedures

PURPOSE: This rule provides clarification of the financial examination process and procedures to educate licensees and the public.

(1) The board shall conduct a financial examination of the books and records of each seller at least once every five (5) years, subject to available funding.
(2) The board shall conduct financial examinations or audits as a means to ensure compliance with the provisions of Chapters 333 and 436.400 to 436.525, RSMo, and 20 CSR 2120-3 as those statutes and regulations relate to preneed funeral contracts.
(3) The board will set the scope of financial examinations.
(4) Upon determining that a financial examination or audit of a seller is to be conducted, the board will issue a notice to the assigned examiner that will instruct the examiner as to the scope of the financial examination or audit.
(5) Before the board begins a financial examination or audit, the board may provide notice to the seller that the board will be conducting a financial examination. This notice will contain the following:
(A) Notice to the seller that the board will be conducting a financial examination or audit; and
(B) A request of the seller to submit to the board specified records the board will require to begin the financial examination or audit and a date by which those records are due to the board. The board may request copies of statements showing trust balances and assets, joint account statements, verification of insurance for insurance funded preneed contracts, copies of ledgers or reports detailing all active preneed contracts, copies of agreements with providers, agents, trustees, and any other records the board deems relevant to conduct the financial examination or audit.
(6) Seller will be given opportunity to provide response to the financial examination or audit report.
(7) Upon the board's determination that all exceptions identified in a financial examination or audit have been resolved, the board will provide written notice to the seller that the financial examination or audit has been closed by the board.

AUTHORITY: sections 333.330, 333.340, 436.470, and 436.520, RSMo 2016. Original rule filed Jan. 30, 2020, effective Aug. 30, 2020.*
*Original authority: 333.330, RSMo 2009; 333.340, RSMo 2009; 436.470, RSMo 2009; and 436.520, RSMo 2009.

20 CSR 2120-3.550 Seller Fees and Charges on Preneed Contracts

PURPOSE: This rule clarifies how optional fees and charges for items other than funeral services and funeral merchandise shall be shown on a preneed contract.

(1) If a seller and purchaser agree to include any optional fees or charges on a preneed contract for items other than funeral services and funeral merchandise, as those terms are defined in these rules and by provisions of Chapters 333 and sections 436.400 to 436.525, RSMo, the contract must include a description of each optional fee or charge as it is shown on the general price list. Examples of optional fees or charges that might be part of a preneed contract include fees for installment payments on the preneed contract, price protection, or price guarantee fees.
(2) With the exception of credit life premiums and the board's state contract fee, as authorized by sections 436.400 to 436.525, RSMo, all optional fees or charges shall be considered as payments on the preneed contract and must be deposited pursuant to sections 436.400 to 436.525, RSMo, into trust or joint account, as per the terms of the preneed contract. For insurance funded preneed contracts, any optional fees shall be considered as part of the preneed contract.

AUTHORITY: sections 333.340, 436.425, 436.430, and 436.520, RSMo 2016. Original rule filed Jan. 30, 2020, effective Aug. 30, 2020.*
*Original authority: 333.340, RSMo 2009; 436.425, RSMo 2009; 436.430, RSMo 2009; and 436.520, RSMo 2009.

20 CSR 2120-3.560 Cemetery Exemption

PURPOSE: The purpose of the rule is to provide clarification regarding what preneed falls within Chapter 436, RSMo and Chapter 214, RSMo.

(1) Pursuant to section 333.310, RSMo, a cemetery is exempt from the licensure requirements of sections 333.315 and 333.320, RSMo, when all of the following conditions are satisfied:
(A) The cemetery has a current and valid license issued pursuant to section 214.275, RSMo;
(B) All sales of merchandise made by the cemetery that would otherwise be defined as a preneed contract for funeral merchandise are made pursuant to a contract whereby such merchandise is either—
1. Purchased in conjunction with an interment right or grave space subject to section 214.320, RSMo; or
2. Made to be delivered to an interment right or grave subject to section 214.320, RSMo, that is owned by the purchaser and identified in the contract***;***
(C) The cemetery has not been found to be in non-compliance with sections 214.385 or 214.387, RSMo, by the Office of Endowed Care Cemeteries pursuant to a completed examination, audit, decision of the Administrative Hearing Commission, or order of any court; and
(D) The cemetery does not offer funeral services that may only be provided by a Missouri licensed funeral director or embalmer.

AUTHORITY: sections 333.111 and 333.310, RSMo 2016. Original rule filed Jan. 30, 2020, effective Aug. 30, 2020.*
*Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995 and 333.310, RSMo 2009.

Pre 8.29.2009 – Chapter 333

Chapter 333
State Board of Embalmers and Funeral Directors

333.011. Definitions.

As used in this chapter, unless the context requires otherwise, the following terms have the meanings indicated:

(1) "Board", the state board of embalmers and funeral directors created by this chapter;
(2) "Embalmer", any individual licensed to engage in the practice of embalming;
(3) "Funeral director", any individual licensed to engage in the practice of funeral directing;
(4) "Funeral establishment", a building, place, crematory, or premises devoted to or used in the care and preparation for burial or transportation of the human dead and includes every building, place or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose;
(5) "Person" includes a corporation, partnership or other type of business organization;
(6) "Practice of embalming", the work of preserving, disinfecting and preparing by arterial embalming, or otherwise, of dead human bodies for funeral services, transportation, burial or cremation, or the holding of oneself out as being engaged in such work;
(7) "Practice of funeral directing", engaging by an individual in the business of preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision or management of the operations of a funeral establishment.

(L. 1965 p. 522 § 1, A.L. 2007 S.B. 272)

333.021. Unlicensed person not to engage in practice of embalming or funeral directing.

1. No person shall engage in the practice of embalming in this state unless he has a license as required by this chapter.

2. No person shall engage in the practice of funeral directing unless he has a license issued under this chapter nor shall any person use in connection with his name or business any of the words "undertaker", "mortician", "funeral home", "funeral parlor", "funeral chapel", "funeral consultant", "funeral director" or other title implying that he is in the business defined as funeral directing herein, unless he or the individual having control, supervision or management of his business is duly licensed to practice funeral directing in this state.

(L. 1965 p. 522 § 2, A.L. 1981 S.B. 16)

333.031. Application for license—fees—examination.

Each application for a license to practice either embalming or funeral directing shall be in writing, addressed to the board, on forms prescribed, verified and shall contain such information as is required by the board. The application shall include a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration. Each application shall be accompanied by an embalming fee or funeral directing fee. Any applicant for both a license to practice embalming and to practice funeral directing shall pay both fees. If any applicant for a license to practice embalming or funeral directing fails to pass the examination given by the board, he may be given other examinations upon payment of a reexamination fee.

(L. 1965 p. 522 § 3, A.L. 1981 S.B. 16)

1.41. Qualifications of applicants—examinations—licenses—board may waive requirements in certain cases.

1. Each applicant for a license to practice funeral directing shall furnish evidence to establish to the satisfaction of the board that he or she is:

(1) At least eighteen years of age, and possesses a high school diploma or equivalent thereof;
(2) Either a citizen or a bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice funeral directing upon the grant of a license to do so; and
(3) A person of good moral character.

2. Every person desiring to enter the profession of embalming dead human bodies within the state of Missouri and who is enrolled in an accredited institution of mortuary science education shall register with the board as a practicum student upon the form provided by the board. After such registration, a student may assist, under the direct supervision of Missouri licensed embalmers and funeral directors, in Missouri licensed funeral establishments, while serving his or her practicum for the accredited institution of mortuary science education. The form for registration as a practicum student shall be accompanied by a fee in an amount established by the board.

3. Each applicant for a license to practice embalming shall furnish evidence to establish to the satisfaction of the board that he or she:

(1) Is at least eighteen years of age, and possesses a high school diploma or equivalent thereof;
(2) Is either a citizen or bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice embalming upon the grant of a license to do so;
(3) Is a person of good moral character;
(4) Has graduated from an institute of mortuary science education accredited by the American Board of Funeral Service Education, or any successor organization recognized by the United States Department of Education, for funeral service education. If an applicant does not appear for the final examination before the board within five years from the date of his or her graduation from an accredited institution of mortuary science education, his or her registration as a student embalmer shall be automatically canceled;
(5) Upon due examination administered by the board, is possessed of a knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative art, together with statutes, rules and regulations governing the care, custody, shelter and disposition of dead human bodies and the transportation thereof or has passed the national board examination of the Conference of Funeral Service Examining Boards. If any applicant fails to pass the state examination, he or she may retake the examination at the next regular examination meeting. The applicant shall notify the board office of his or her desire to retake the examination at least thirty days prior to the date of the examination. Each time the examination is retaken, the applicant shall pay a new examination fee in an amount established by the board;
(6) Has been employed full time in funeral service in a licensed funeral establishment and has personally embalmed at least twenty-five dead human bodies under the personal supervision of an embalmer who holds a current and valid Missouri embalmer's license or an embalmer who holds a current and valid embalmer's license in a state with which the Missouri board has entered into a reciprocity agreement during an apprenticeship of not less than twelve consecutive months. "Personal supervision" means that the licensed embalmer shall be physically present during the entire embalming process in the first six months of the apprenticeship period and physically present at the beginning of the embalming process and available for consultation and personal inspection within a period of not more than one hour in the remaining six months of the apprenticeship period. All transcripts and other records filed with the board shall become a part of the board files.

4. If the applicant does not appear for oral examination within the five years after his or her graduation from an accredited institution of mortuary science education, then he or she must file a new application and no fees paid previously shall apply toward the license fee.

5. Examinations required by this section and section 333.042 shall be held at least twice a year at times and places fixed by the board. The board shall by rule and regulation prescribe the standard for successful completion of the examinations.

6. Upon establishment of his or her qualifications as specified by this section or section 333.042, the board shall issue to the applicant a license to practice funeral directing or embalming, as the case may require, and shall register the applicant as a duly licensed funeral director or a duly licensed embalmer. Any person having the qualifications required by this section and section 333.042 may be granted both a license to practice funeral directing and to practice embalming.

7. The board shall, upon request, waive any requirement of this chapter and issue a temporary funeral director's license, valid for six months, to the surviving spouse or next of kin or the personal representative of a licensed funeral director, or to the spouse, next of kin, employee or conservator of a licensed funeral director disabled because of sickness, mental incapacity or injury.

(L. 1965 p. 522 § 4, A.L. 1969 H.B. 56, A.L. 1977 S.B. 6, A.L. 1981 S.B. 16, A.L. 1983 S.B. 44 & 45, A.L. 1993 S.B. 27, A.L. 1998 S.B. 854, A.L. 2001 H.B. 48)

1.42. Application and examination fees for persons wanting to be funeral directors, apprenticeship requirements—examination content for applicants—apprenticeship duties—appearance before board—limited license only for cremation—exemptions from apprenticeship.

1. Every person desiring to enter the profession of funeral directing in this state shall make application with the state board of embalmers and funeral directors and pay the current application and examination fees. Applicants not entitled to a license pursuant to section 333.051 shall serve an apprenticeship for at least twelve months in a funeral establishment licensed for the care and preparation for burial and transportation of the human dead in this state or in another state which has established standards for admission to practice funeral directing equal to, or more stringent than, the requirements for admission to practice funeral directing in this state. The applicant shall devote at least fifteen hours per week to his or her duties as an apprentice under the supervision of a Missouri licensed funeral director. Such applicant shall submit proof to the board, on forms provided by the board, that the applicant has arranged and conducted ten funeral services during the applicant's apprenticeship under the supervision of a Missouri licensed funeral director. Upon completion of the apprenticeship, the applicant shall appear before the board to be tested on the applicant's legal and practical knowledge of funeral directing, funeral home licensing, preneed funeral contracts and the care, custody, shelter, disposition and transportation of dead human bodies. Upon acceptance of the application and fees by the board, an applicant shall have twenty-four months to successfully complete the requirements for licensure found in this section or the application for licensure shall be canceled.

2. If a person applies for a limited license to work only in a funeral establishment which is licensed only for cremation, including transportation of dead human bodies to and from the funeral establishment, he or she shall make application, pay the current application and examination fee and successfully complete the Missouri law examination. He or she shall be exempt from the twelve-month apprenticeship and the practical examination before the board. If a person has a limited license issued pursuant to this subsection, he or she may obtain a full funeral director's license if he or she fulfills the apprenticeship and successfully completes the funeral director practical examination.

3. If an individual is a Missouri licensed embalmer or has graduated from an institute of mortuary science education accredited by the American Board of Funeral Service Education or any successor organization recognized by the United States Department of Education for funeral service education, or has successfully completed a course of study in funeral directing offered by a college accredited by a recognized national, regional or state accrediting body and approved by the state board of embalmers and funeral directors, and desires to enter the profession of funeral directing in this state, the individual shall comply with all the requirements for licensure as a funeral director pursuant to subsection 1 of section 333.041 and subsection 1 of this section; however, the individual is exempt from the twelve-month apprenticeship required by subsection 1 of this section.

(L. 1993 S.B. 27, A.L. 1998 S.B. 854, A.L. 2001 H.B. 48)

333.051. Licenses for nonresidents—recognition of persons licensed in other states—fees.

1. Any nonresident individual holding a valid, unrevoked and unexpired license as a funeral director or embalmer in the state of his residence may be granted a license to practice funeral directing or embalming in this state on application to the board and on providing the board with such evidence as to his qualifications as is required by the board. No license shall be granted to a nonresident applicant except one who resides in a county contiguous and adjacent to the state of Missouri and who is regularly engaged in the practice of funeral directing or embalming, as defined by this chapter, at funeral establishments within this state or in an establishment located in a county contiguous and adjacent to the state of Missouri, unless the law of the state of the applicant's residence authorizes the granting of licenses to practice funeral directing in such state to persons licensed as funeral directors under the law of the state of Missouri.

2. Any individual holding a valid, unrevoked and unexpired license as an embalmer or funeral director in another state having requirements substantially similar to those existing in this state who is or intends to become a resident of this state may apply for a license to practice in this state by filing with the board a certified statement from the examining board of the state or territory in which the applicant holds his license showing the grade rating upon which his license was granted, together with a recommendation, and the board shall grant the applicant a license upon his successful completion of an examination over Missouri laws as required in section 333.041 or section 333.042 if the board finds that the applicant's qualifications meet the requirements for funeral directors or embalmers in this state at the time the applicant was originally licensed in the other state.

3. A person holding a valid, unrevoked and unexpired license to practice funeral directing or embalming in another state or territory with requirements less than those of this state may, after five consecutive years of active experience as a licensed funeral director or embalmer in that state, apply for a license to practice in this state after passing a test to prove his proficiency, including but not limited to a knowledge of the laws and regulations of this state as to funeral directing and embalming.

(L. 1965 p. 522 § 5, A.L. 1981 S.B. 16, A.L. 1998 S.B. 854)

333.061. No funeral establishment to be operated by unlicensed person—license requirements, application procedure—license may be suspended or revoked or not renewed.

1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;
(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;
(3) That any place in the funeral establishment where embalming is conducted contains a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health and senior services for the prevention of the spread of contagious, infectious or communicable diseases;
(4) Each funeral establishment shall have available in the preparation or embalming room a register book or log which shall be available at all times in full view for the board's inspector and the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and the embalmer's license number shall be noted in the book; and
(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. The board shall grant or deny each application for a license pursuant to this section within thirty days after it is filed. The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.

4. Licenses shall be issued pursuant to this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. The board may refuse to renew or may suspend or revoke any license issued pursuant to this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the violation by the owner of the funeral establishment of any of the provisions of section 333.121. No new license shall be issued to the owner of a funeral establishment or to any corporation controlled by such owner for three years after the revocation of the license of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection the procedure for notice and hearing as prescribed by section 333.121 shall be followed.

(L. 1965 p. 522 § 6, A.L. 1981 S.B. 16, A.L. 2001 H.B. 48)

333.071. Business to be conducted where.

The business or profession of an individual licensed to practice embalming or funeral directing shall be conducted and engaged in at a funeral establishment. This section does not prevent a licensed funeral director owning or employed by a licensed funeral establishment from conducting an individual funeral from another and different funeral establishment or at a church, a residence, public hall, or lodge room.

(L. 1965 p. 522 § 7, A.L. 1981 S.B. 16)

333.081. License renewal, fee—failure to renew, effect—business address required.

1. Each license issued to a funeral director or embalmer pursuant to this chapter shall expire unless renewed on or before the renewal date. The board may, however, provide for the renewal of licenses held by individuals who are not actively engaged in practice and who are over sixty-five years of age without fee. The board shall

renew any such license upon due application for renewal and upon the payment of the renewal fee, except that no license shall expire during the period when the holder thereof is actively engaged in the military service of the United States. Any licensee exempted from the renewal of his or her license because of military service shall, before beginning practice in this state after leaving military service, apply for and pay the renewal fee for the current licensing period.

2. When renewing a funeral director's or embalmer's license the licensee shall specify the address of the funeral establishment at which he or she is practicing or proposes to practice and shall notify the board of any termination of his or her connection therewith. The licensee shall notify the board of any new employment or connection with a funeral establishment of a permanent nature. If the licensee is not employed at or connected with a funeral establishment he shall notify the board of his or her permanent address.

3. The holder of an expired license shall be issued a new license by the board within two years of the renewal date after he or she has paid delinquent renewal fees. Any license not renewed within two years shall be void.

4. Failure of the licensee to receive the renewal notice shall not relieve the licensee of the duty to pay the renewal fee and renew his or her license.

(L. 1965 p. 522 § 8, A.L. 1981 S.B. 16, A.L. 2001 H.B. 48)

333.091. License to be recorded, displayed.

Each establishment, funeral director or embalmer receiving a license under this chapter shall have the license recorded in the office of the local registrar of vital statistics of the registration district in which the licensee practices. The licenses or duplicates shall be displayed in the office(s) or place(s) of business.

(L. 1965 p. 522 § 9, A.L. 1981 S.B. 16)

333.101. Places of business may be inspected.

The board or any member thereof or any agent duly authorized by it may enter the office, premises, establishment or place of business of any funeral service licensee in this state or any office, premises, establishment or place where the practice of funeral directing or embalming is carried on, or where such practice is advertised as being carried on for the purpose of inspecting said office, premises or establishment and for the purpose of inspecting the license and registration of any licensee and the manner and scope of training given by the licensee to the intern operating therein.

(L. 1965 p. 522 § 10, A.L. 1981 S.B. 16)

333.111. Rules and regulations of board, procedure—fees, how set.

1. The board shall adopt and enforce rules and regulations for the transaction of its business and for standards of service and practice to be followed in the professions of embalming and funeral directing deemed by it necessary for the public good and consistent with the laws of this state. The board may also prescribe a standard of proficiency as to the qualifications and fitness of those engaging in the practice of embalming or funeral directing.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

3. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

(L. 1965 p. 522 § 11, A.L. 1981 S.B. 16, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

333.121. Denial, suspension, or revocation of license, grounds for.

1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required

by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;
(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;
(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;
(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;
(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;
(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;
(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;
(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;
(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;
(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;
(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;
(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;
(13) Violation of any professional trust or confidence;
(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;
(15) Violation of any of the provisions of chapter 193, RSMo, chapter 194, RSMo, or chapter 436, RSMo;
(16) Presigning a death certificate or signing a death certificate on a body not embalmed by, or under the personal supervision of, the licensee;
(17) Obtaining possession of or embalming a dead human body without express authority to do so from the person entitled to the custody or control of the body;
(18) Failure to execute and sign the death certificate on a body embalmed by, or under the personal supervision of, a licensee;
(19) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof;
(20) Willfully and through undue influence selling a funeral;
(21) Refusing to surrender a dead human body upon request by the next of kin, legal representative or other person entitled to the custody and control of the body.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.

(L. 1965 p. 522 § 12, A.L. 1981 S.B. 16, A.L. 2007 S.B. 272)

333.145. Written statement of charges, required when, content—merchandise prices to be indicated.

1. Every funeral firm in this state or the funeral service licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of a dead human body, at the time such arrangements are completed and prior to the time of rendering the service or providing the merchandise, a written statement signed by the purchaser or purchasers or their legal representatives, and a representative of the funeral establishment, showing to the extent then known:

(1) The price of the service that the person or persons have selected and what is included therein;
(2) The price of each of the supplemental items of service or merchandise requested;
(3) The amount involved for each of the items for which the firm will advance moneys as an accommodation to the family;
(4) The method of payment.

2. A funeral establishment shall not bill or cause to be billed any item that is referred to as a "cash advance" item unless the net amount paid for such item or items by the funeral establishment is the same as is billed by the funeral establishment.

3. All merchandise displayed in or by funeral establishments in this state shall have the price of the merchandise and included services, if any, clearly marked or indicated on the merchandise at all times.

(L. 1981 S.B. 16)

333.151. Board members—qualifications—terms—vacancies.

1. The state board of embalmers and funeral directors shall consist of six members, including one voting public member, appointed by the governor with the advice and consent of the senate. Each member, other than the public member, appointed shall possess either a license to practice embalming or a license to practice funeral directing in this state or both said licenses and shall have been actively engaged in the practice of embalming or funeral directing for a period of five years next before his or her appointment. Each member shall be a United States citizen, a resident of this state for a period of at least one year, a qualified voter of this state and shall be of good moral character. Not more than three members of the board shall be of the same political party. The president of the Missouri Funeral Directors Association in office at the time shall each, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five persons qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Funeral Directors Association shall each include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

2. Each member of the board shall serve for a term of five years. Any vacancy on the board shall be filled by the governor and the person appointed to fill the vacancy shall possess the qualifications required by this chapter and shall serve until the end of the unexpired term of his or her predecessor.

3. The public member shall be at the time of his or her appointment a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

(L. 1965 p. 522 § 15, A.L. 1981 S.B. 16, A.L. 1999 H.B. 343)
CROSS REFERENCE: Public member, additional duties, RSMo 620.132

333.161. Board members to take oath.

Each member of the board shall be duly commissioned by the governor and shall take and subscribe an oath to support the Constitution of the United States and the state of Missouri and to demean himself faithfully in office. A copy of the oath shall be endorsed on the commission.

(L. 1965 p. 522 § 16)

333.171. Board meetings—notice—quorum—seal.

The board shall hold at least two regular meetings each year for the purpose of administering examinations at times and places fixed by the board. Other meetings shall be held at the times fixed by regulations of the board or on the call of the chairman of the board. Notice of the time and place of each regular or special meeting shall be mailed by the executive secretary to each member of the board at least five days before the date of the meeting. At all meetings of the board three members constitute a quorum. The board may adopt and use a common seal.

(L. 1965 p. 522 § 17, A.L. 1981 S.B. 16)

333.181. Officers of board.

At one of its regular meetings, the board shall elect a chairman, vice chairman and secretary from the members of the board. Each such officer shall serve as such for a term fixed by regulation of the board and shall perform such duties as are required by the regulations of the board and by law.

(L. 1965 p. 522 § 18)

333.201. Examinations, notice, published, when.

The board shall publish notice of each examination held by the board at least thirty days before any examination is to be held, advising the time and place of the examination.

(L. 1965 p. 522 § 20, A.L. 1980 H.B. 1266, A.L. 1981 S.B. 16)

333.221. Compensation of board members—board may employ personnel.

1. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his expenses necessarily incurred in the discharge of his official duties.

2. The board may employ such board personnel, as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as is necessary for the administration of this chapter.

(L. 1965 p. 522 § 22, A.L. 1980 H.B. 1266, A.L. 1981 S.B. 16)

333.231. Fund created, use, funds transferred to general revenue, when.

1. All fees payable under this chapter shall be collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the fund to be known as the "Board of Embalmers and Funeral Directors' Fund".

2. All compensation of board members and employees and all expenses incident to the administration of this chapter shall be paid out of the board of embalmers and funeral directors' fund. No expense of this board shall ever be paid out of any other fund of the state, either by deficiency bill or otherwise.

3. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

(L. 1965 p. 522 § 23, A.L. 1980 H.B. 1266, A.L. 1981 S.B. 16, A.L. 1985 S.B. 99)

333.241. Unlawful practices, injunctions.

1. Upon application by the board, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or

license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client or patient of the licensee.

2. Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

(L. 1965 p. 522 § 24, A.L. 1981 S.B. 16)

333.251. Application of law.

Nothing in this chapter shall apply to nor in any manner interfere with the duties of any officer of local or state institutions, nor shall this chapter apply to any person engaged simply in the furnishing of burial receptacles for the dead, but shall only apply to persons engaged in the business of embalming or funeral directing.

(L. 1965 p. 522 § 25)

333.261. Violations are misdemeanors.

Any person who violates any provision of this chapter is guilty of a class A misdemeanor.

(L. 1965 p. 522 § 26, A.L. 1981 S.B. 16)

Pre-2009 – Chapter 436

Chapter 436 - Special Purpose Contracts
FUNERAL CONTRACTS

436.005. Definitions. As used in sections 436.005 to 436.071, unless the context otherwise requires, the following terms shall mean:

(1) “Beneficiary”, the individual who is to be the subject of the disposition and who will receive funeral services, facilities or merchandise described in a preneed contract;

(2) “Division”, the division of professional registration of the department of economic development;

(3) “Funeral merchandise”, caskets, grave vaults, or receptacles, and other personal property incidental to a funeral or burial service, and such term shall also include grave lots, grave space, grave markers, monuments, tombstones, crypts, niches or mausoleums if, but only if, such items are sold:

(a) By a companion agreement which is sold in contemplation of trade or barter for grave vaults or funeral or burial services and funeral merchandise; or
(b) At prices, in excess of prevailing market prices, intended to be offset by reductions in the costs of funeral or burial services or facilities which are not immediately required;

(4) “Person”, any individual, partnership, corporation, cooperative, association, or other entity;

(5) “Preneed contract”, any contract or other arrangement which requires the current payment of money or other property in consideration for the final disposition of a dead human body, or for funeral or burial services or facilities, or for funeral merchandise, where such disposition, services, facilities or merchandise are not immediately required, including, but not limited to, an agreement providing for a membership fee or any other fee having as its purpose the furnishing of burial or funeral services or merchandise at a discount, except for contracts of insurance, including payment of proceeds from contracts of insurance, unless the preneed seller or provider is named as the owner or beneficiary in the contract of insurance;

(6) “Preneed trust”, a trust established by a seller, as grantor, to receive deposits of, administer, and disburse payments received under preneed contracts by such seller, together with income thereon;

(7) “Provider”, the person obligated to provide the disposition and funeral services, facilities, or merchandise described in a preneed contract;

(8) “Purchaser”, the person who is obligated to make payments under a preneed contract;

(9) “Seller”, the person who sells a preneed contract to a purchaser and who is obligated to collect and administer all payments made under such preneed contract;

(10) “State board”, the Missouri state board of embalmers and funeral directors;

(11) “Trustee”, the trustee of a preneed trust, including successor trustees.

(L. 1982 S.B. 644 § 1, A.L. 1985 H.B. 627, A.L. 1988 S.B. 430)

436.007. Preneed contract voidable if not in compliance with requirements—payment recoverable, when—exceptions to requirements.

1. Each preneed contract made after August 13, 1982, shall be void and unenforceable unless:

(1) It is in writing;
(2) It is executed by a seller who is in compliance with the provisions of section 436.021;
(3) It identifies the contract beneficiary and sets out in detail the final disposition of the dead body and funeral services, facilities, and merchandise to be provided;
(4) It identifies the preneed trust into which contract payments shall be deposited, including the name and address of the trustee thereof;
(5) The terms of such trust and related agreements among two or more of the contract seller, the contract provider, and the trustee of such trust are in compliance with the provisions of sections 436.005 to 436.071;
(6) It contains the name and address of the seller and the provider.

2. If a preneed contract does not comply with the provisions of sections 436.005 to 436.071, all payments made under such contract shall be recoverable by the purchaser, his heirs, or legal representative, from the contract seller or other payee thereof, together with interest at the rate of ten percent per annum and all reasonable costs of collection, including attorneys’ fees.

3. Each preneed contract made before August 13, 1982, and all payments and disbursements under such contract shall continue to be governed by sections 436.010 to 436.080, as those sections existed at the time the contract was made; but, the provisions of subsection 2 of section 436.035 may be applied to all preneed contracts which are executory on August 13, 1982.

4. Subject to the provisions of subdivision (5) of section 436.005, the provisions of sections 436.005 to 436.071 shall apply to the assignment of proceeds of any contract of insurance for the purpose of funding a preneed contract or written in conjunction with a preneed contract. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance sold with a preneed contract.

5. No preneed contract shall become effective unless and until the purchaser thereof has placed his signature in a space provided on such contract, or application therefor, and the purchaser has received a copy of such contract signed by the seller.

6. The seller and the provider of a preneed contract may be the same person.

(L. 1982 S.B. 644 § 2 subsec. 1 to 4, 8, 9, A.L. 1985 H.B. 627, A.L. 1988 S.B. 430)

436.011. Seller to have contract with provider, violation—knowledge of false designation as provider, failure to act, effect.

1. Any seller who designates a person as a provider in a preneed contract without a contractual relationship with such person is in violation of the provisions of sections 436.005 to 436.071.

2. Any person who knowingly permits a seller to sell a preneed contract designating him as the provider or as one of two or more providers who will furnish the funeral merchandise and services described in the preneed contract shall provide the funeral merchandise and services described in the preneed contract for the beneficiary. Failure of any such person to do so shall be a violation of the provisions of sections 436.005 to

436.071 and shall be cause for suspension or revocation of that person's license under the provisions of section 333.061, RSMo.

3. If a provider has knowledge that a seller is designating him as the provider of funeral merchandise and services under any preneed contract and fails within thirty days after first obtaining such knowledge to take action to prevent the seller from so designating him as the provider, the provider shall be deemed to have consented to such designation.

(L. 1982 S.B. 644 § 2 subsecs. 5, 6, 7, A.L. 1985 H.B. 627) Effective 7-16-85

436.015. Requirements for providers—sale of assets of provider, procedure, violations, effect.

1. No person shall perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract unless, at the time of such performance, agreement or designation:

(1) Such person is licensed by the state board as a funeral establishment pursuant to the provisions of section 333.061, RSMo, but such person need not be licensed as a funeral establishment if he is the owner of real estate situated in Missouri which has been formally dedicated for the burial of dead human bodies and the contract only provides for the delivery of one or more grave vaults at a future time and is in compliance with the provisions of chapter 214, RSMo; and

(2) Such person is registered with the state board and files with the state board a written consent authorizing the state board to order an examination and if necessary an audit by the staff of the division of professional registration who are not connected with the board of its books and records which contain information concerning preneed contracts sold for, in behalf of, or in which he is named as provider of the described funeral merchandise or services.

2. Each provider under one or more preneed contracts shall:

(1) Furnish the state board in writing with the name and address of each seller authorized by the provider to sell preneed contracts in which the provider is named as such within fifteen days after the provider signs a written agreement or authorization permitting the seller to sell preneed contracts designating or obligating the provider as the "provider" under the contract. This notification requirement shall include a provider who, itself, acts as seller;

(2) File annually with the state board a report which shall contain:

(a) The business name or names of the provider and all addresses from which it engages in the practice

of its business;
(b) The name and address of each seller with whom it has entered into a written agreement since last filing a report;
(c) The name and address of the custodian of its books and records containing information about preneed contract sales and services;

(3) Cooperate with the state board, the office of the attorney general of Missouri, and the division in any investigation, examination or audit brought under the provisions of sections 436.005 to 436.071;
(4) At least thirty days prior to selling or otherwise disposing of its business assets, or its stock if a corporation, or ceasing to do business, give written notification to the state board and to all sellers with whom it has one or more preneed contracts of its intent to engage in such sale or to cease doing business. In the case of a sale of assets or stock, the written notice shall also contain the name and address of the purchaser. Upon receipt of such written notification, the state board may take reasonable and necessary action to determine that any preneed contracts which the provider is obligated to service will be satisfied at the time of need. The state board may waive the requirements of this subsection, or may shorten the period of notification whenever in its discretion it determines that compliance with its provisions are not necessary. Failure of the state board to take action regarding such sale or termination of business within thirty days shall constitute such a waiver.

3. It is a violation of the provisions of sections 436.005 to 436.071 and subdivision (3) of section 333.121, RSMo, for any person to sell, transfer or otherwise dispose of the assets of a provider without first complying with the provisions of subdivision (4) of subsection 2 of this section. This violation shall be in addition to the provisions of section 436.061.

4. If any licensed embalmer, funeral director or licensed funeral establishment shall knowingly allow such licensee's name to be designated as the provider under, or used in conjunction with the sale of, any preneed contract, such licensee shall be liable for the provider's obligations under such contract.

5. With respect to a provider or seller licensed under the provisions of chapter 333, RSMo, any violation of the provisions of sections 436.005 to 436.071 shall constitute a violation of subdivision (3) of section 333.121,RSMo.

(L. 1982 S.B. 644 § 3, A.L. 1985 H.B. 627) Effective 7-16-85

436.021. Requirements for sellers—sale of assets or intent to go out of business, procedure, waived when, violation, effect.

1. No person, including without limitation a person who is a provider under one or more preneed contracts, shall sell, perform or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of that sale, performance, agreement, or designation, that person shall:

(1) Be an individual resident of Missouri or a business entity duly authorized to transact business in Missouri;
(2) Have established, as grantor, a preneed trust or trusts with terms consistent with sections 436.005 to 436.071;
(3) Have registered with the state board.

2. Each seller under one or more preneed contracts shall:

(1) Maintain adequate records of all such contracts and related agreements with providers and the trustee of preneed trusts regarding such contracts, including copies of all such agreements;
(2) Notify the state board in writing of the name and address of each provider who has authorized the seller to sell one or more preneed contracts under which the provider is designated or obligated as the contract's "provider";
(3) File annually with the state board a signed and notarized report on forms provided by the state board. Such a report shall only contain:

(a) The date the report is submitted and the date of the last report;
(b) The name and address of each provider with whom it is under contract;
(c) The total number of preneed contracts sold in Missouri since the filing of the last report;
(d) The total face value of all preneed contracts sold in Missouri since the filing of the last report;
(e) The name and address of the financial institution in Missouri in which it maintains the trust accounts required under the provisions of sections 436.005 to 436.071 and the account numbers of such trust accounts;
(f) A consent authorizing the state board to order an examination and if necessary an audit by staff of the

division of professional registration who are not connected with the board of the trust account, designated by depository and account number. The staff of the division of professional registration in conducting the audit shall not release a detailed accounting of the trust account to the board unless there exist circumstances indicating that the account does not comply with the requirements of sections 436.005 to 436.071, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to 436.071;

(4) File with the state board a consent authorizing the state board to order an examination and if necessary an audit by staff of the division of professional registration who are not connected with the board of its books and records relating to the sale of preneed contracts and the name and address of the person designated by the seller as custodian of these books and records. The staff of the division of professional registration in conducting the audit shall not release a detailed accounting of the trust account to the board unless there exist circumstances indicating that the account does not comply with the requirements of sections 436.005 to 436.071, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to 436.071;

(5) Cooperate with the state board, the office of the attorney general, and the division in any investigation, examination or audit brought under the provisions of sections 436.005 to 436.071.

3. Prior to selling or otherwise disposing of a majority of its business assets, or a majority of its stock if a corporation, or ceasing to do business as a seller, the seller shall provide written notification to the state board of its intent to engage in such sale at least sixty days prior to the date set for the closing of the sale, or of its intent to cease doing business at least sixty days prior to the date set for termination of its business. The written notice shall be sent, at the same time as it is provided to the state board, to all providers who are then obligated to provide funeral services or merchandise under preneed contracts sold by the seller. Upon receipt of the written notification, the state board may take reasonable and necessary action to determine that the seller has made proper plans to assure that the trust assets of the seller will be set aside and used to service outstanding preneed contracts sold by the seller. The state board may waive the requirements of this subsection or may shorten the period of notification whenever in its discretion it determines that compliance with its provisions are not necessary. Failure of the state board to take action regarding such sale or termination of business within sixty days shall constitute such a waiver.

4. It is a violation of the provisions of sections 436.005 to 436.071 for any person to sell, transfer or otherwise dispose of the assets of a seller without first complying with the provisions of subsection 3 of this section.

(L. 1982 S.B. 644 § 4, A.L. 1985 H.B. 627) Effective 7-16-85

436.027. Seller to return initial payments—percentage authorized.

The seller may retain as his own money, for the purpose of covering his selling expenses, servicing costs, and general overhead, the initial funds so collected or paid until he has received for his use and benefit an amount not to exceed twenty percent of the total amount agreed to be paid by the purchaser of such prepaid funeral benefits as such total amount is reflected in the contract.

(L. 1982 S.B. 644 § 5)

436.031. Trustee of preneed trust to be chartered financial institution—powers and duties—cost of administration—termination of trust.

1. The trustee of a preneed trust shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri. The trustee shall accept all deposits made to it by the seller of a preneed contract and shall hold, administer, and distribute such deposits, in trust, as trust principal, pursuant to the provisions of sections 436.005 to 436.071. Payments regarding two or more preneed contracts may be deposited into and commingled in the same preneed trust, so long as the trust's grantor is the seller of all such preneed contracts and the trustee maintains adequate records of all payments received.

2. All property held in a preneed trust, including principal and undistributed income, shall be invested and reinvested by the trustee thereof. The trustee shall exercise such judgment and care under circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. A preneed trust agreement may provide that when the principal and interest in a preneed trust exceeds two hundred fifty thousand dollars,

investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri-registered independent qualified investment advisor designated by the seller who established the trust; provided, that title to all investment assets shall remain with the trustee and be kept by the trustee to be liquidated upon request of the advisor of the seller. In no case shall control of said assets be divested from the trustee nor shall said assets be placed in any investment which would be beyond the authority of a reasonably prudent trustee to invest in. The trustee shall be relieved of all liability regarding investment decisions made by such qualified investment advisor.

3. The seller of a preneed contract shall be entitled to all income, including, without limitation, interest, dividends, and capital gains, and losses generated by the investment of preneed trust property regarding such contract, and the trustee of the trust may distribute all income, net of losses, to the seller at least annually; but no such income distribution shall be made to the seller if, and to the extent that, the distribution would reduce the aggregate market value on the distribution date of all property held in the preneed trust, including principal and undistributed income, below the sum of all deposits made to such trust pursuant to subsection 1 of this section for all preneed contracts then administered through such trust.

4. All expenses of establishing and administering a preneed trust, including, without limitation, trustee's fees, legal and accounting fees, investment expenses, and taxes, shall be paid or reimbursed directly by the seller of the preneed contracts administered through such trust and shall not be paid from the principal of a preneed trust.

5. The trustee of a preneed trust shall maintain adequate books of account of all transactions administered through the trust and pertaining to the trust generally. The trustee shall assist seller who established the trust or its successor in interest in the preparation of the annual report described in subdivision (3) of subsection 2 of section 436.021. The seller shall furnish to each contract purchaser, within fifteen days after receipt of the purchaser's written request, a written statement of all deposits made to such trust regarding such purchaser's contract.

6. The trustee of a preneed trust shall, from time to time, distribute trust principal as provided by sections 436.005 to 436.071.

7. A preneed trust shall terminate when trust principal no longer includes any payments made under any preneed contract, and upon such termination the trustee shall distribute all trust property, including principal and undistributed income, to the seller which established the trust.

(L. 1982 S.B. 644 § 6, A.L. 1985 H.B. 627) Effective 7-16-85

436.035. Purchaser may cancel contract, procedure—seller to return all payments made by purchaser—certain rights of public aid recipients.

1. At any time before the final disposition of the dead body, or before funeral services, facilities, or merchandise described in a preneed contract are provided by the provider designated in the preneed contract, the purchaser may cancel the contract without cause by delivering written notice thereof to the seller and the provider. Within fifteen days after its receipt of such notice, the seller shall pay to the purchaser a net amount equal to all payments made into trust under the contract. Upon delivery of the purchaser's receipt for such payment to the trustee, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.

2. Notwithstanding the provisions of subsection 1 of this section, if a purchaser is eligible, becomes eligible, or desires to become eligible, to receive public assistance under chapter 208, RSMo, or any other applicable state or federal law, the purchaser may irrevocably waive and renounce his right to cancel the contract pursuant to the provisions of subsection 1 of this section, which waiver and renunciation shall be made in writing and delivered to the contract seller; but the purchaser may designate and redesignate the provider in the irrevocable agreement or plan where applicable by the terms of the contract.

3. Notwithstanding the provisions of subsection 1 of this section, any purchaser, within thirty days of receipt of the executed contract, may cancel the contract without cause by delivering written notice thereof to the seller and the provider, and receive a full refund of all payments made on the contract. Notice of this provision and the appropriate addresses for notice of cancellation shall be so designated on the face of the contract.

(L. 1982 S.B. 644 § 7)

436.038. Death of beneficiary outside area served by designated provider.

If the death of the beneficiary occurs outside the general area served by the provider designated in a preneed contract, then the seller shall either provide for the furnishing of comparable funeral services and merchandise by a licensed mortuary selected by the next of kin of the purchaser or, at the seller's option, shall pay over to the purchaser in fulfillment of all obligations under the contract, an amount equal to all sums actually paid in cash by the purchaser under the preneed contract together with interest to be provided for in the contract. Upon seller's full performance under the provisions of this section, the trustee of the preneed trust for the contract shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.

(L. 1982 S.B. 644 § 8)

436.041. Default by purchaser, seller may cancel contract, when, procedure.

If the payments payable under a preneed contract shall be more than three months in arrears, the seller may cancel the contract by delivering written notice thereof to the purchaser and the provider, and by making payment to the purchaser of a net amount equal to all payments made into trust under the contract. Upon delivery of the purchaser's receipt of such payment to the trustee, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.

(L. 1982 S.B. 644 § 9)

436.045. Payment to provider for services, when—trustee to distribute amount deposited on contract to seller.

Within thirty days after a provider and a witness shall certify in writing to the seller that the provider has provided the final disposition of the dead body, and funeral services, facilities, and merchandise described in the contract, or has provided alternative funeral benefits for the beneficiary pursuant to special arrangements made with the purchaser, the seller shall pay to the provider a net amount equal to all payments required to be made pursuant to the written agreement between the seller and the provider or all payments made under the contract. Upon delivery to the trustee of the provider's receipt for such payment, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.

(L. 1982 S.B. 644 § 10)

436.048. Default by seller to pay purchaser or providers.

If a seller shall fail to make timely payment of an amount due a purchaser or a provider pursuant to the provisions of sections 436.005 to 436.071, the purchaser or provider, as appropriate, shall have the right, in addition to other rights and remedies against such seller, to make demand upon the trustee of the preneed trust for the contract to distribute to the purchaser or provider from the trust, as damages for its breach, an amount equal to all deposits made into the trust for the contract.

(L. 1982 S.B. 644 § 11)

436.051. Death or legal incapacity of purchaser.

Upon the death or legal incapacity of a purchaser, all rights and remedies granted to the purchaser pursuant to the provisions of sections 436.005 to 436.071 shall be enforceable by and accrue to the benefit of the purchaser's legal representative or his successor designated in such contract, and all payments otherwise payable to the purchaser shall be paid to that person.

(L. 1982 S.B. 644 § 12)

436.053. Certain funds may be in joint account in lieu of trust—requirements—waiver of reporting fee, when—waiver of right to cancel, effect.

1. Notwithstanding the provisions of sections 436.021 to 436.048, the provider and the purchaser may agree that all funds paid the provider by the purchaser shall be deposited with financial institutions chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the provider and purchaser. If the purchaser has irrevocably waived and renounced his right to cancel the agreement between the provider and the purchaser pursuant to subdivision (5) of this subsection, such agreement may provide that all funds held in the account at the beneficiary's death

shall be applied toward the purchase of funeral or burial services or facilities, or funeral merchandise, selected by the purchaser or the responsible party after the beneficiary's death, in lieu of the detailed identification of such items required by subdivision (3) of subsection 1 of section 436.007. The agreement between the provider and purchaser shall provide that:

(1) The total consideration to be paid by the purchaser under the contract shall be made in one or more payments into the joint account at the time the agreement is executed or, thereafter within five days of receipt, respectively;
(2) The financial institution shall hold, invest, and reinvest the deposited funds in savings accounts, certificates of deposit or other accounts offered to depositors by the financial institutions, as the agreement shall provide;
(3) The income generated by the deposited funds shall be used to pay the reasonable expenses of administering the agreement, and the balance of the income shall be distributed or reinvested as provided in the agreement;
(4) At any time before the final disposition, or before funeral services, facilities, and merchandise described in a preneed contract are furnished, the purchaser may cancel the contract without cause by delivering written notice thereof to the provider and the financial institution, and within fifteen days after its receipt of the notice, the financial institution shall distribute the deposited funds to the purchaser;
(5) Notwithstanding the provisions of subdivision (4) of this subsection, if a purchaser is eligible, becomes eligible, or desires to become eligible to receive public assistance under chapter 208, RSMo, or any other applicable state or federal law, the purchaser may irrevocably waive and renounce his right to cancel such agreement. The waiver and renunciation must be in writing and must be delivered to the provider and the financial institution;
(6) If the death of the beneficiary occurs outside the general area served by the provider, then the provider shall either provide for the furnishing of comparable funeral services and merchandise by a licensed mortuary selected by the purchaser or, at the provider's option, shall pay over to the purchaser in fulfillment of the obligation of the preneed contract, an amount equal to the sums actually paid in cash by such purchaser under such preneed contract together with interest to be provided for in the contract, in which event the financial institution shall distribute the deposited funds to the provider;
(7) Within fifteen days after a provider and a witness certifies in writing to the financial institution that he has furnished the final disposition, or funeral services, facilities, and merchandise described in a contract, or has provided alternative funeral benefits for the beneficiary pursuant to special arrangements made with the purchaser, if the certification has been approved by the purchaser, then the financial institution shall distribute the deposited funds to the provider.

2. There shall be a separate joint account as described in subsection 1 of this section for each preneed contract sold or arranged under this section.

3. If the total face value of the contracts sold by a provider operating solely under the provisions of this section does not exceed thirty-five thousand dollars in any one fiscal year, such a provider shall not be required to pay the annual reporting fee for such year required under subsection 1 of section 436.069.

(L. 1982 S.B. 644 § 13, A.L. 1985 H.B. 627, A.L. 1990 H.B. 1214)

436.055. Complaints to board—investigation, by whom, procedure.

1. All complaints received by the state board which allege a registrant's noncompliance with the provisions of sections 436.005 to 436.071 shall be forwarded to the division of professional registration for investigation, except minor complaints which the state board can mediate or otherwise dispose of by contacting the parties involved. A copy of each such complaint shall be forwarded to the subject registrant, except that each complaint in which the complainant alleges under oath that a registrant has misappropriated preneed contract payments may be forwarded to the division of professional registration without notice to the subject registrant.

2. The division shall investigate each complaint forwarded from the state board using staff who are not connected with the state board and shall forward the results of such investigation to the subject registrant and to the attorney general for evaluation. If the attorney general, after independent inquiry using staff of the attorney general's office who have not represented the board, determines that there is no probable cause to conclude that the registrant has violated sections 436.005 to 436.071, the registrant and the state board shall be so notified and the complaint shall be dismissed; but, if the attorney general determines that there is such probable cause the registrant shall be so notified and the results of such evaluation shall be transmitted to the state board for

further action as provided in sections 436.061 and 436.063.

(L. 1982 S.B. 644 § 14, A.L. 1985 H.B. 627) Effective 7-16-85

436.061. Violations, penalties.

1. Each person who shall knowingly and willfully violate any provision of sections 436.005 to 436.071, and any officer, director, partner, agent, or employee of such person involved in such violation is guilty of a class D felony. Each violation of any provision of sections 436.005 to 436.071 constitutes a separate offense and may be prosecuted individually.

2. Any violation of the provisions of sections 436.005 to 436.071 shall constitute a violation of the provisions of section 407.020, RSMo. In any proceeding brought by the attorney general for a violation of the provisions of sections 436.005 to 436.071, the court may, in addition to imposing the penalties provided for in sections 436.005 to 436.071, order the revocation or suspension of the registration of a defendant seller.

(L. 1982 S.B. 644 §§ 15, 16)

436.063. Revocation or suspension of seller's registration—procedure.

Whenever the state board determines that a registered seller or provider has violated or is about to violate any provision of sections 436.005 to 436.071 following a meeting at which the registrant is given a reasonable opportunity to respond to charges of violations or prospective violations, it may request the attorney general to apply for the revocation or suspension of the seller's or provider's registration or the imposition of probation upon terms and conditions deemed appropriate by the state board in accordance with the procedure set forth in sections 621.100 to 621.205, RSMo. Use of the procedures set out in this section shall not preclude the application of the provisions of subsection 2 of section 436.061.

(L. 1982 S.B. 644 § 17, A.L. 1985 H.B. 627) Effective 7-16-85

436.065. Option for credit life on life of purchaser—authorized.

A preneed contract may offer the purchaser the option to acquire and maintain credit life insurance on the life of the purchaser. Such insurance shall provide for the payment of death benefits to the seller in an amount equal to the total of all contract payments unpaid as of the date of such purchaser's death, and shall be used solely to make those unpaid payments.

(L. 1982 S.B. 644 § 18, A.L. 1985 H.B. 627) Effective 7-16-85

436.067. Confidentiality of information given to board, division or attorney general—exceptions.

No information given to the board, the division or the attorney general pursuant to the provisions of sections 436.005 to 436.071 shall, unless ordered by a court for good cause shown, be produced for inspection or copying by, nor shall the contents thereof be disclosed to, any person other than the seller, or the provider who is the subject thereof, the authorized employee of the board, the attorney general or the division, without the consent of the person who produced such material. However, under such reasonable conditions and terms as the board, the division or the attorney general shall prescribe, such material shall be available for inspection and copying by the person who produced such material or any duly authorized representative of such person. The state board, the division or the attorney general, or his duly authorized assistant, may use such documentary material or copies thereof in the enforcement of the provisions of sections 436.005 to 436.071 by presentation before any court or the administrative hearing commission, but any such material which contains trade secrets shall not be presented except with the approval of the court, or the administrative hearing commission, in which the action is pending after adequate notice to the person furnishing such material. No documentary material provided the board, the division or the attorney general pursuant to the provisions of sections 436.005 to 436.071 shall be disclosed to any person for use in any criminal proceeding.

(L. 1982 S.B. 644 § 19, A.L. 1985 H.B. 627) Effective 7-16-85

436.069. Annual reporting fee, amount.

1. After July 16, 1985, each seller shall remit an annual reporting fee in an amount of two dollars for each preneed contract sold in the year since the date the seller filed its last annual report with the state board. This reporting fee shall be paid annually and may be collected from the purchaser of the preneed contract as an

additional charge or remitted to the state board from the funds of the seller.

2. After July 16, 1985, each provider shall remit an annual reporting fee of thirty dollars.

3. The reporting fee authorized by subsections 1 and 2 of this section are in addition to the fees authorized by section 436.071.

(L. 1985 H.B. 627) Effective 7-16-85

436.071. Registration fee.

Each application for registration under the provisions of section 436.015 or 436.021 shall be accompanied by a preneed registration fee as determined by the board pursuant to the provisions of section 333.111, subsection 2.

(L. 1982 S.B. 644 § 20)